

File No. 120127

Committee Item No. 4
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: February 22, 2012

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget & Legislative Analyst Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ethics Form 126 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |

OTHER

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | *Disposition and Development Agreement (2/7/12) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | *Port Commission Resolution No. 11-79 (CEQA Findings; Mitigation Monitoring and Reporting Program) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | *Draft Environmental Impact Report with Comments and Response |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | *America's Cup People Plan (Sept 30, 2011) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | *America's Cup Security Plan (Sept 30, 2011 v.9) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | *America's Cup Sustainability Plan (January 30, 2012) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | *Water and Air Traffic Plan (January 2012) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | *Workforce Development and Local Small Business Inclusion |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | *America's Cup Youth Involvement Plan |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | *Zero Waste Plan (December 2011) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | *Informational memorandum regarding the Development and Disposition Agreement and related actions approved by the Port Commission (34 th America's Cup Project) |

Completed by: Victor Young

Date: February 17, 2012

Completed by: Victor Young

Date: _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Approving the 34th America's Cup Project and Related Transactions]

2
3 **Resolution adopting California Environmental Quality Act Findings, a Statement of**
4 **Overriding Considerations, and a Mitigation Monitoring and Reporting Program**
5 **(MMRP0 for the 34th America's Cup events and approving the America's Cup project;**
6 **waiving certain termination rights by the City under the 34th America's Cup Host and**
7 **Venue Agreement (Host Agreement); approving the Development and Disposition**
8 **Agreement between the City, through its Port Commission, and the America's Cup**
9 **Event Authority, LLC (Event Authority), which also amends the Host Agreement;**
10 **approving a Memorandum of Agreement regarding the City's and the Event Authority's**
11 **respective obligations for certain mitigation measures in the MMRP and other project-**
12 **related activities; and authorizing further actions and ratifying prior actions consistent**
13 **with the terms of this Resolution.**

14
15 WHEREAS, The Board of Supervisors of the City and County of San Francisco finds as
16 follows:

17 (a) In February 2010, BMW Oracle Racing, sailing for the Golden Gate Yacht Club
18 (together, the "Team"), won the 33rd America's Cup in Valencia, Spain; and,

19 (b) The Team, as Defenders of the America's Cup, has the right and duty to organize
20 and hold the 34th America's Cup sailing regatta, and has created the America's Cup Event
21 Authority LLC (the "Event Authority") for such purpose; and,

22 (c) Over the course of 2010 the Team, the Event Authority and the City negotiated the
23 terms of a bid for the City and County of San Francisco (the "City") to be the host city for the
24 34th America's Cup (the "Match"), the Louis Vuitton Cup Challenger Series, and certain related
25 regattas in 2012 and 2013 (together, the "Event"); and,

1 (d) In furtherance of those negotiations, supporters of bringing the Event to
2 San Francisco established the America's Cup Organizing Committee (the "ACOC"), a
3 nonprofit public benefit corporation which includes civic and corporate leaders from
4 throughout the Bay Area, California and the nation, as well as a bipartisan honorary
5 committee including elected and appointed representatives from our local, state and federal
6 governments; and,

7 (e) On December 14, 2010, by its Resolution No. 585-10, the Board of Supervisors
8 approved the terms of a 34th America's Cup Host and Venue Agreement (subject to further
9 addition, amendment or modification under certain conditions) and other aspects of the City's
10 bid to host the Event (the "Host Agreement"); and,

11 (f) As approved under Resolution No. 585-10, the Host Agreement contemplated:

12 (i) The Event Authority, the City and the ACOC as signatories to the agreement;

13 (ii) A number of commitments by ACOC in support of the host city bid, including
14 but not limited to a fundraising program of \$32 million over three years, the proceeds of
15 which are to be provided to the City to defray a portion of the City costs of hosting the
16 Event;

17 (iii) sole source negotiations between the City (acting through the Port
18 Commission (the "Port") and other relevant City agencies) and the Event Authority for
19 venue leases and other agreements to use City property needed for the Event;

20 (iv) an investment before the 34th America's Cup Match of at least \$55 million by
21 the Event Authority in substructure and infrastructure improvements to Port facilities for
22 the Event, subject to City approval of the improvements and verification of the Event
23 Authority's costs;

24 (v) undertaking and completing environmental review of the proposed project
25 under the California Environmental Quality Act ("CEQA") before the City's

1 consideration of any approvals for the Project;

2 (vi) in exchange for a \$55 million pre-Match investment, an agreement by the
3 City to grant the long-term development rights to Piers 30-32 and Seawall Lot 330 on a
4 sole source basis to the Event Authority; and,

5 (vii) in exchange for substructure and infrastructure improvements above
6 \$55 million, an agreement to reimburse the Event Authority through long-term
7 development rights to Port venues on a sole source basis, together with proceeds of
8 property tax increment from infrastructure financing districts associated with the future
9 development of Piers 30-32 and Seawall Lot 330, all subject to the terms and
10 conditions of the Host Agreement, including future development project-specific
11 environmental review under CEQA and future approvals by the Port Commission and
12 Board of Supervisors, among other agencies; and,

13 (g) In addition to approving the terms of a Host Agreement, in adopting Resolution 585-

14 10 the Board of Supervisors made the following findings:

15 (i) In response to identified negative financial impacts to the Port that could
16 result from hosting the Event, Resolution No. 585-10 referenced a range of potential
17 solutions, including using Charter Section B7.320 to offset race-related, net short-term
18 rent reductions to the Port, financing certain City costs to prepare venues for the Event
19 with City certificates of participation, and City financing for waterfront improvements to
20 offset reductions in the Port's revenue bond capacity, subject to the review and
21 approval of the City's Capital Planning Committee, the Mayor and the San Francisco
22 Board of Supervisors, as applicable;

23 (ii) In Resolution No. 585-10 the Board of Supervisors found that hosting the
24 34th America's Cup in San Francisco would generate significant public benefits for the
25 City including: (1) the repair, improvement and productive reuse of certain City piers

1 along the City's waterfront that are currently in a state of disrepair; (2) the generation of
2 significant new jobs and economic development in a very short period of time; and
3 (3) new opportunities for people to access, view and enjoy the San Francisco Bay as
4 part of an extraordinary showcase for the Bay to the world; and,

5 (iii) In Resolution No. 585-10 the Board of Supervisors found that the plan to
6 undertake and implement the Event is fiscally feasible and responsible under San
7 Francisco Administrative Code Chapter 29; and,

8 (h) On December 31, 2010 the Team selected San Francisco as the host city for the
9 Event, subject to execution of the Host Agreement by the City, the Event Authority and ACOC,
10 reflecting the terms negotiated by the parties within the authorization provided by
11 Resolution No. 585-10; and,

12 (i) The executed Host Agreement is on file with the Clerk of the Board in File No.
13 101259; and,

14 (j) As contemplated by the Host Agreement, the Event Authority and the City, acting
15 through the Planning Department, the Port of San Francisco and the Office of Economic and
16 Workforce Development, and with the cooperation of numerous other City agencies, have
17 together undertaken a planning and environmental review process for the Event and provided
18 for appropriate public hearings before the Planning Commission, the Port Commission and
19 other City commissions with an Event implementation role; and,

20 (k) In conjunction with the planning and environmental review process Port and City
21 staff have negotiated more detailed terms for delivery of Port venues to the Authority for the
22 Event, approval and acceptance of Event Authority improvements to City property, procedures
23 for implementing the long-term real estate transactions contemplated under the Host
24 Agreement, and indemnification obligations, as set forth in a Development and Disposition
25 Agreement between the City, through its Port, and the Event Authority (the "DDA"), with which

1 the Event Authority and the City intend to replace and supersede Sections 5, 6, and 7 (relating
2 to Venues, Event Authority improvements to City property, and long-term development rights)
3 and Section 15 (relating to indemnification obligations) of the Host Agreement; and,

4 (k) On July 11, 2011, the Planning Department published a Draft Environmental Impact
5 Report (the "Draft EIR") for the contemplated Event activities, including a conceptual analysis
6 of potential long-term development on Port lands contemplated under the Host Agreement
7 (the "Project"), for public review and accepted public comments for a 45-day comment period;
8 and,

9 (l) On August 11, 2011, the Planning Commission held a public hearing on the Draft
10 EIR; and,

11 (m) On December 1, 2011, the Planning Department issued a document that set forth
12 public comments to the Draft EIR and official responses (the "Comments and Responses
13 document") which, together with the Draft EIR comprises the Final Environmental Impact
14 Report ("Final EIR"); and,

15 (n) The Comments and Responses document included analysis of a "Project Variant"
16 for the America's Cup project, based on project changes and improvements developed in
17 response to public comments and further event planning which reduced environmental
18 impacts as well as new, additional mitigation measures which reduced or avoided
19 environmental impacts that were described in the Draft EIR, as well as analysis of a "Reduced
20 Intensity AC34 and Long Term Development Sub-Alternative" that provided more specific
21 information about long-term development; and,

22 (o) On December 15, 2011, the Planning Commission held a public hearing and, by
23 Motion No. 18514 adopted by a unanimous vote of those Commissioners present, certified the
24 Final EIR as accurate, adequate, and complete; and,

25 (p) A copy of Planning Commission Motion 18514 is on file with the Clerk of the Board

1 of Supervisors in File No. 120127 and is incorporated herein by reference as though fully set
2 forth; and,

3 (q) On December 16, 2011, the Port Commission by unanimous vote approved its
4 Resolution Nos. 11-79 and 11-80 (the "Port Resolutions"), which adopted CEQA findings—
5 including a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting
6 Program (the "MMRP")—(the "CEQA Findings") and approved certain aspects of the AC34
7 event plans, including the DDA, subject to Board of Supervisors approval of the DDA as an
8 amendment to the Host Agreement; and,

9 (r) As set forth in detail in the CEQA Findings, the proposed AC34 events, as well as
10 the Event Authority's long-term development rights, were analyzed in the Final EIR "Reduced
11 Intensity AC34 and Long Term Development Sub-Alternative" described in Chapter 11 of the
12 Final EIR. The Project includes elements of the Project Variant, the Sub-Alternative and
13 Alternative 4, as discussed in the Final EIR and as set forth in the CEQA Findings, and was
14 identified as one of the environmentally superior alternatives in the Final EIR; and,

15 (s) Copies of the Port Resolutions, including the CEQA Findings and the MMRP, as
16 well as the conditionally-approved DDA, are on file with the Clerk of the Board in File No
17 120127 and are incorporated herein by reference as though fully set forth; and,

18 (t) Two appeals were filed timely challenging the Planning Commission's certification
19 action. At its hearing on January 24, 2012, the Board of Supervisors denied the appeals by its
20 Motion M12-011, which is on file with the Clerk of the Board in File No 120127 and
21 incorporated herein by reference as though fully set forth.

22 (u) By its terms the DDA replaces Articles 5, 6, 7, and 15 of the Host Agreement in their
23 entirety and adds Section 2.4, giving the Event Authority the right to terminate the Host
24 Agreement if it terminates the DDA, and Section 2.5, incorporating into the Host Agreement a
25 Memorandum of Agreement regarding the City's and the Event Authority's respective

1 obligations for "Project Sponsor" mitigation measures in the MMRP; and,

2 (v) The DDA generally reflects the Host Agreement's financial structure, whereby the
3 Event Authority in return for its investments in improvements required for the Event would be
4 repaid through development rights, rent credits at Port sites, and payments from the proceeds
5 of property tax increment from infrastructure financing districts derived from Piers 26, 28,
6 30-32 and Seawall Lot 330, in total amounts sufficient to compensate the Event Authority for
7 its investment; and,

8 (w) Under Section 9.4 of the Host Agreement, the ACOC agreed to endeavor to raise
9 up to \$32 million over a three year period from private sources to reimburse the City for a
10 portion of the City's costs in meeting its obligations under the Host Agreement, such as the
11 costs of environmental review and the provision of adequate operational resources as set
12 forth in the Implementation Plans (as such term is defined below). Section 9.4 established
13 fundraising targets for the ACOC of \$12 million in year one ending seven working days after
14 completion of environmental review under CEQA, and \$10 million each in years two and
15 three; and,

16 (x) The Controller's Office has issued a Memorandum to the President of the Board of
17 Supervisors dated February 6, 2012, which is on file with the Clerk of the Board in File No
18 120127 and is incorporated herein by reference as though fully set forth, reporting on the
19 Controller's independent evaluation of ACOC's progress towards its year one fundraising goal
20 of \$12 million, in which the Controller concludes that the ACOC has obtained written pledges,
21 letters, and agreements totaling \$12 million payable to the ACOC over the coming three
22 years, and that ACOC will be in financial position to make a payment to the City of
23 approximately \$8 million net of ACOC expenses, absent additional fundraising; and,

24 (y) Under Section 9.3 of the Host Agreement, the ACOC agreed to provide to the Event
25 Authority an irrevocable letter of credit, or other financial guarantee issued by a surety, in form

1 and by an issuer acceptable to the Authority in the amount of \$32 million to provide
2 compensation to the Authority if either the City or the ACOC fails to perform its obligations
3 under the Host Agreement. The ACOC and the Event Authority are in discussions on the
4 form this security will take to satisfy this obligation; such form may include an insurance
5 product and/or an escrow account; and,

6 (z) Article 2 of the Host Agreement includes a number of termination rights for the
7 parties, including but not limited to the City's right to determine not to proceed with the Event
8 based on the information generated by the environmental review process, the City's right to
9 terminate if the ACOC fails to meet its year one fundraising target of \$12 million by the date
10 that is seven working days after the completion of the CEQA process, and the Event
11 Authority's right to terminate if the ACOC fails to provide security in the amount of \$32 million
12 to the Authority to compensate the Authority for any failure by either the City or the ACOC to
13 perform its obligations under the Host Agreement; and,

14 (aa) The DDA includes as a condition precedent that all termination rights under
15 Article 2 of the Host Agreement, except under Section 2.4, expired or have been waived; and,

16 (bb) The Host Agreement called for the submission of the following implementation
17 plans on or before the seventh day after completion of the CEQA process: People Plan,
18 Security Plan, Waste Management Plan (now known as the Zero Waste Plan), Youth
19 Involvement Plan, Workforce Development Plan, Ambush Marketing Plan, Advertising Plan,
20 Water and Air Traffic Plan, and LEED Plan (now known as the Sustainability Plan), copies of
21 which are on file in File No. 120127 (together, the "Implementation Plans") and will be
22 attached to and made a part of the HVA; and,

23 (cc) Section 2.1(i) of the Host Agreement provides the City with the authority as lead
24 agency under CEQA to "require modifications to the Event, including agreements pertaining to
25

1 the Event, as are deemed necessary to mitigate significant environmental impacts if said
2 impacts are identified through the environmental review process"; now, therefore, be it

3 RESOLVED, That this Board has reviewed the Final EIR and finds that the actions
4 contemplated by this Resolution are within the scope of the Final EIR and were fully analyzed
5 in the Final EIR, and that no changes have occurred in the Project or in the circumstances
6 surrounding the Project, nor has any new information regarding the project or its
7 circumstances come to light, that would require changes or additions to the Final EIR.
8 Accordingly, this Board hereby adopts as its own the CEQA Findings, including the Statement
9 of Overriding Considerations and the MMRP adopted by the Port Commission in its
10 Resolution No. 11-79; and, be it

11 FURTHER RESOLVED, That the Board of Supervisors finds that the ACOC has made
12 significant progress toward meeting its year one fundraising target of \$12 million through
13 contributions and pledges and waives the City's right to terminate under Section 2.2(h) of the
14 Host Agreement; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors hereby approves the DDA as
16 an amendment to the Host Agreement that supersedes Articles 5, 6, 7 and 15 in their entirety
17 and adds Sections 2.4 and 2.5 as described above, conditioned on the agreement of the
18 ACOC and the Event Authority as to the satisfaction of the security requirement under section
19 9.3 of the Host Agreement, and directs the Port Executive Director to revise the DDA to reflect
20 the form and manner by which the ACOC's obligation has been satisfied should that occur
21 before executing the DDA; and, be it

22 FURTHER RESOLVED, In so doing, the Board of Supervisors hereby reaffirms and
23 approves the Host Agreement, as amended by (a) the DDA, including the allocation of
24 responsibilities under the Memorandum of Agreement incorporated in the Host Agreement by
25 Section 2.5, and (b) the responsibilities set forth in the MMRP under Section 2.1(i) of the Host

1 Agreement and the Implementation Plans (as so amended, the "Amended Host Agreement");
2 and, be it

3 FURTHER RESOLVED, That the Board of Supervisors hereby approves the Project as
4 described under the Final EIR, the Amended Host Agreement and the Implementation Plans;
5 and be it

6 FURTHER RESOLVED, That the Board of Supervisors authorizes and directs the
7 Executive Director of the Port (the "Executive Director") to execute the DDA in such final form
8 as is approved by the Executive Director in consultation with the City Attorney and is
9 consistent with the approvals granted under this resolution; and be it

10 FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive
11 Director to enter into any additions, amendments or other modifications to the DDA (including,
12 without limitation, preparation and attachment of, or changes to, any or all of the exhibits or
13 related documents) that the Executive Director, in consultation with the City Attorney,
14 determine are in the best interests of the City, and otherwise do not materially increase the
15 obligations or liabilities of the Port or the City or materially decrease the public benefits
16 accruing to the Port or the City, and are necessary or advisable to complete the transactions
17 which the DDA contemplates and to effectuate the purpose and intent of this resolution, such
18 determination to be conclusively evidenced by the execution and delivery by the Executive
19 Director of the DDA and any amendments to such document; and be it

20 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of the
21 City's Office of Economic and Workforce Development (the "OEWD Director") to enter into
22 any additions, amendments or other modifications to the Implementation Plans that the
23 OEWD Director, in consultation with the City Attorney, determine are in the best interests of
24 the City, and otherwise do not materially increase the obligations or liabilities of the City or
25 materially decrease the public benefits accruing to the City, and are necessary or advisable to

1 complete the transactions which this resolution contemplates and to effectuate the purpose
2 and intent of this resolution, such determination to be conclusively evidenced by the execution
3 and delivery by the OEWD Director of the Implementation Plans and any amendments to such
4 document(s); and be it

5 FURTHER RESOLVED, That the Board of Supervisors authorizes and urges the
6 Executive Director, and any other appropriate officers, agents or employees of the City to take
7 any and all steps (including, but not limited to, the execution and delivery of any and all
8 certificates, agreements, notices, consents and other instruments or documents), as they or
9 any of them deems necessary or appropriate, in consultation with the City Attorney, in order to
10 consummate the transactions in accordance with this resolution, or to otherwise effectuate the
11 purpose and intent of this resolution, such determination to be conclusively evidenced by the
12 execution and delivery by any such person or persons of any such documents; and be it

13 FURTHER RESOLVED, That the Board of Supervisors approves, confirms and ratifies
14 all prior actions taken by the officials, employees and agents of the Port Commission or the
15 City with respect to the transactions, plans and agreements described herein.

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Items 4 and 5 Files 12-0127 and 12-0128 <i>(Continued from February 15, 2012)</i>	Department: Port of San Francisco Office of Economic and Workforce Development
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EXECUTIVE SUMMARY

Background

The 34th America's Cup is a series of international sailing races between the Golden Gate Yacht Club, the defender of the America's Cup, and the challengers, to be hosted by the City in 2012 and 2013. On December 14, 2010, the Board of Supervisors approved the original 34th America's Cup Host and Venue Agreement between the America's Cup Event Authority (Event Authority), the America's Cup Organizing Committee (ACOC), and the City, to host the 34th America's Cup and related events (Event) in San Francisco. At the same time, the Board of Supervisors found the 34th America's Cup Event to be fiscally feasible, as required by Administrative Code Chapter 29 (File 10-1259).

Subsequent to the Board of Supervisors approval of the original Host and Venue Agreement, the Mayor's Office and other City officials agreed to modifications to the Host and Venue Agreement, which are discussed further in this report.

San Francisco was selected as the host city for the 34th America's Cup on December 31, 2012, and the Mayor, Event Authority, and ACOC executed the modified Host and Venue Agreement on January 4, 2011. The Host and Venue Agreement obligated the City, as host city for the Event, to conduct environmental review of the Event, provide waterfront venues for the Event at no cost to the Event Authority, and provide or facilitate the provision of certain services required to host a successful Event.

The proposed Development and Disposition Agreement (DDA) is subject to Board of Supervisors approval because it replaces Sections 5, 6, 7, and 15 of the Host and Venue Agreement, as modified. Under the proposed DDA, the Event Authority is granted long-term development rights to certain Port properties in exchange for the Event Authority's financing infrastructure and site preparation work for certain Port properties in advance of the 34th America's Cup Event. Under the proposed DDA, the Event Authority will be granted long-term leases or transfer rights, together with development rights, for Piers 26, 28, 29, and 30-32, and Seawall Lot 330.

Fiscal Impact

Estimated costs for Authority Infrastructure Work and Additional Work performed by the Event Authority prior to the Event are \$111,306,520, which is \$56,306,520, or more than 102 percent over the previously estimated costs of \$55,000,000 under the original Host and Venue Agreement. The entire amount of \$111,306,520 is fully reimbursable by the Port to the Event Authority through the Port's granting of long term leases and development rights to the Event Authority.

Under the proposed DDA, the Port will also reimburse the Event Authority for Pre-Match Authority Infrastructure Work of \$55,000,000 through the 66-year rent-free lease for Piers 30-32 and transfer of title to Seawall Lot 330. The Port will reimburse the Event Authority for Authority Infrastructure Work of the remaining estimated \$56,306,520 (\$111,306,520 less \$55,000,000) through infrastructure financing bond proceeds, and rent credits for 10-year leases for Piers 26, 28, and 29, and a 66-year lease for Pier 29. These provisions represent a change from the original Host and Venue Agreement, as previously approved by the Board of Supervisors on December 14, 2010, which allowed for Port reimbursement only through rent credits on long term leases for Piers 30-32 and Piers 26 and 28, and transfer of title to Seawall Lot 330. The modified Host and Venue agreement extended long term development rights to the short term venues, which included Piers 19 and 19 ½, Pier 23, and Pier 29.¹ Piers 19, 19 ½, and 23 were subsequently removed as long term lease sites under the proposed DDA, leaving Pier 29 as one of the main venues for which the Event Authority has long term development rights.

The proposed DDA provides for the Port to pay a participation of 50 percent of the proceeds of a subsequent lease of Piers 30-32 to the Event Authority for up to 15 years after the termination of the 66-year lease and return of Piers 30-32 to the Port if the Port has not fully reimbursed the Event Authority. Interest accrues on the value of the Event Authority's expenditures at 11 percent per year.

The Budget and Legislative Analyst estimates that the City's costs for hosting the Event may exceed (a) contributions from the America's Cup Organizing Committee (ACOC), and (b) Sales Tax, Hotel Tax, Parking Tax, and Payroll Tax revenues generated by the Event, which could result in an estimated net loss to the City of up to \$21,715,881.

The City's costs for hosting the 34th America's Cup are estimated to be \$51,750,810, which is \$20,329,331, or 64.7 percent more, than the previously estimated costs of \$31,421,479 included in the Budget and Legislative Analyst's December 13, 2010 report to the Board of Supervisors Budget and Finance Committee on the fiscal feasibility of the 34th America's Cup project (File 10-1259). The City's estimated costs for hosting the Event of \$51,750,810 are based on an estimated 5.4 million visitor days.

The estimated City costs of \$51,750,810 will be offset by (a) additional Hotel Tax, Payroll Tax, Sales Tax, and Parking Tax revenues generated by the 34th America's Cup activities, of an estimated \$22,034,929² and (b) the potential contribution of \$32,000,000 from the ACOC over three years as specified in the Host and Venue Agreement.

As shown in the table below, the City will realize an estimated net benefit from hosting the Event of \$2,284,119 if the ACOC contributes the full \$32,000,000, which the ACOC has pledged to

¹ Although Piers 27 and 80 were short term venues but were subject to limitations due to the construction of the Cruise Terminal on Pier 27 and the Port's breakbulk cargo operations on Pier 80. Under the modified Host and Venue Agreement, the City had sole discretion over long term leases for Piers 19 and 19 ½ and Pier 23 but not over a long term lease for Pier 29.

² The Budget and Legislative Analyst's November 18, 2010 memorandum to the Board of Supervisors provided a range of tax revenue estimates, based on the number of race days and visitors, from a low of \$17.3 million to a high of \$30.4 million. \$22.0 million represents the base scenario, based on approximately 55 days of racing and 3.6 million visitor days.

raise to offset the City's costs, and the Event generates the expected level of tax revenues. However, if the ACOC contributes only \$8,000,000, which is the amount currently estimated by the Controller, the City will incur an estimated net loss from hosting the Event of \$21,715,881.

It should be noted that the \$8,000,000 from the ACOC represents largely pledged monies, and not cash payments.

	If ACOC Contributes \$32,000,000	If ACOC Contributes \$8,000,000
Estimated Sales Tax, Hotel Tax, and Other Revenues	\$22,034,929	\$22,034,929
ACOC Contribution	32,000,000	8,000,000
Total Revenues to Offset City Costs	54,034,929	30,034,929
Estimated City Costs	(51,750,810)	(51,750,810)
Surplus/(Deficit)	\$2,284,119	(\$21,715,881)

The estimated loss of \$21,715,881 compares to the Budget and Legislative Analyst's prior estimate of \$11,959,846, an increase of \$9,756,035 or 81.6 percent.

Under the Host and Venue Agreement, the City may terminate the Agreement if the ACOC fails to meet its year one fundraising target of \$12,000,000 by seven days after the completion of the environmental review, which was January 31, 2012. The Budget and Legislative Analyst notes that, if the Board of Supervisors approves the proposed DDA, the City waives its rights to terminate the Host and Venue Agreement, even though the ACOC has not provided the \$12,000,000, as specified in the Agreement.

Recommendations of the Budget and Legislative Analyst

The Board of Supervisors should request the Executive Director of the Port to negotiate with the Event Authority to revise the proposed DDA to:

- For purposes of controlling the City's costs, require that reimbursement for all Authority Infrastructure Work and Additional Work is based on estimates provided by a third-party engineer rather than on actual expenditures.
- Require that the Port report to the Board of Supervisors prior to the future seismic upgrades to Piers 30-32 after the Event on the most fiscally effective options to perform such work, including whether the work should be performed by the Event Authority or the City.
- Eliminate the provisions, not included in the Host and Venue Agreement, as previously approved by the Board of Supervisors on December 14, 2010, in which the Port must pay participation to the Event Authority of 50 percent on revenues from subsequent leases for Piers 30-32 and Piers 26 and 28 up to 15 years after the termination of the 66-year leases and return of Piers 30-32 and Piers 26 and 28 to the Port.
- Impose a cap on the Event Authority's total expenditures that are reimbursable by the Port.

- Reinststate the provision, included in the Host and Venue Agreement, as previously approved by the Board of Supervisors on December 14, 2010, to require (i) a transfer fee equal to 1 percent of the sale price for the resale of condominiums (after the initial sale) constructed on Seawall Lot 330, and (ii) Port participation of 15 percent of the net proceeds of each transfer or sublease of more than 55 percent of the Event Authority's, or successor party's, interest in long-term leases from the Event Authority, or successor party, to other parties, excluding the first transfer.
- Require the return of short-term venues (Piers 19, 19 ½, 23, and 29 ½) to the Port immediately after the conclusion of the Event.
- Require the return of Pier 29 to the Port immediately after the conclusion of the Event if the Event Authority's Pre-Match Authority Infrastructure Work does not qualify for longer term leases for Pier 29.
- Require the Event Authority to retain Piers 26 and 28 unless the Event Authority's Pre-Match Authority Infrastructure Work or Deferred Additional Work does not qualify for longer term leases for Piers 26 and 28.
- Escalate the initial base rents for Piers 26 and 28 by the CPI prior to the start date of the longer term leases.

Approval of the proposed resolutions (File 12-0127 and File 12-0128) is a policy matter for the Board of Supervisors.

MANDATE STATEMENT

Section 9.118 of the San Francisco Charter requires Board of Supervisors approval for entering into any agreement with a term of more than 10 years or expenditures of \$10,000,000 to the City or more, and to any amendments of such an agreement requiring Board of Supervisors approval. The Disposition and Development Agreement is an amendment to the 34th America's Cup Host and Venue Agreement, which requires Board of Supervisors approval under Section 9.118.

BACKGROUND

The 34th America's Cup is a series of international sailing races between the Golden Gate Yacht Club, the defender of the America's Cup, and the challengers, to be hosted by the City in 2012 and 2013.

On December 14, 2010, the Board of Supervisors approved the original 34th America's Cup Host and Venue Agreement between the America's Cup Event Authority ("Event Authority"), the America's Cup Organizing Committee (ACOC), and the City, to host the 34th America's Cup and related events ("Event") in San Francisco. At the same time, the Board of Supervisors found the 34th America's Cup Event to be fiscally feasible, as required by Administrative Code Chapter 29 (File 10-1259). Subsequent to the Board of Supervisors approval of the original Host and Venue Agreement, the Mayor's Office and other City officials agreed to modifications to the Host and Venue Agreement, which are discussed further in this report. San Francisco was selected as the host city for the 34th America's Cup on December 31, 2012, and the Mayor, Event Authority, and ACOC executed the modified Host and Venue Agreement on January 4, 2011. The Host and Venue Agreement obligated the City, as host city for the Event, to conduct environmental review of the Event, provide waterfront venues for the Event at no cost to the Event Authority, and provide or facilitate the provision of certain services required to host a successful Event.

On March 16, 2011, the Board of Supervisors approved a resolution (File 10-1564), which approved a Memorandum of Understanding (MOU) between the City and the Port, authorizing General Fund support to replace lost Port revenues due to the Event. Under the proposed MOU, the City agreed to reimburse the Port approximately \$6.38 million in General Fund monies to replace lost rent payments due to the Event. The ACOC had previously committed to raising \$32 million to offset the City's expenses, including the estimated \$6.38 million in General Fund monies, as discussed further below.

On December 15, 2011, the Planning Commission certified the final Environmental Impact Report (EIR) for the 34th America's Cup, Pier 27 Cruise Terminal, and Northeast Wharf Plaza projects. On December 16, 2011, the Port Commission approved the proposed Disposition and

Development Agreement (DDA) between the City, acting by and through the Port Commission, and the Event Authority.

On January 24, 2012, the Board of Supervisors heard the appeal to the EIR, and upheld the Planning Commission's certification of the EIR.

DETAILS OF LEGISLATION

File 12-0127 would (1) adopt the CEQA findings; (2) waive certain termination rights by the City under the Host and Venue Agreement; (3) approve the Development and Disposition Agreement (DDA) between the City and the Event Authority; (4) approve a Memorandum of Agreement regarding the City's and the Event Authority's respective obligations for certain mitigation measures contained in the Mitigation Monitoring and Reporting Program required by CEQA; and (5) authorize further actions and ratify prior actions consistent with the terms of the resolution.

File 12-0128 is a resolution of intent to establish an infrastructure financing district, consisting of eight project areas, on Port property. The proposed DDA requires the Port to submit the resolution of intent to establish an infrastructure financing district to the Board of Supervisors for approval. As discussed below, the Port will submit the financing plan for each project area in future legislation.

The proposed DDA provides more specific, and in some instances, modified terms and conditions, compared to the original Host and Venue Agreement previously approved by the Board of Supervisors on December 14, 2011. Under the Host and Venue Agreement, the Event Authority was granted long-term development rights to certain Port properties in exchange for the Event Authority's financing infrastructure and site preparation work for certain Port properties in advance of the 34th America's Cup Event. Under the proposed DDA, the Event Authority will be granted long-term leases or transfer rights, together with development rights, for Piers 26, 28, 29, and 30-32, and Seawall Lot 330 ("long term venues"), as discussed in detail below. The Attachment, provided by the Port, compares the original and modified Host and Venue Agreements and the proposed DDA.

Board of Supervisors approval of the proposed DDA is required because it replaces Sections 5, 6, 7, and 15 of the Host and Venue Agreement, as modified. These sections addressed:

- (a) The venue leases between the Port and Event Authority;
- (b) Infrastructure work to be performed by the Port or the Event Authority for the Event;
- (c) The Event Authority's long term development rights; and
- (d) Indemnity.

Event Venues

The proposed DDA defines the venues that the City must make available to the Event Authority for the 34th America's Cup Event. According to the Port Executive Director's report presented to the Port Commission at its December 16, 2011 meeting, Port Commission approval is required for the venue leases or licenses between the Port and the Event Authority because these leases will give the Event Authority rent-free access to the Port properties. These venue leases or licenses do not require Board of Supervisors approval. According to the Executive Director's report, the Port will submit the venue leases or licenses to the Port Commission for approval after the Board of Supervisors' final decision on the proposed DDA.

Short term venues

The Event Authority will have exclusive and non-exclusive use of the short term venues, which include Piers 19 and 19 ½, 23, 27, 29 and 29 ½, and 80. The Event Authority has use of piers and water areas generally for up to six months after the final series of races for the America's Cup in September 2013. Two short term venues have more defined uses and earlier return dates:

- Pier 27, for which the Event Authority has exclusive use for race viewing and team hospitality berths along the northern apron from March 1, 2013 through September 30, 2013. The Port will have the right to berth cruise ships from March 1, 2013 through May 31, 2013, with the Event Authority's consent.
- Pier 80, for which the Event Authority will have exclusive and non-exclusive use for storage, race operations and staging, and facilities for Event competitors and officials, with an obligation to make best efforts to return the venue to the Port's possession as soon as practical after the final series of races. The Port will continue its maritime operations along Pier 80.

Long term venues

The Event Authority has exclusive use of Piers 26, 28, 30-32, and Seawall Lot 330 for variable periods, from Spring 2012 up to six months after the final series of races. After that date, the Event Authority will be entitled to a 66-year lease for Piers 30-32, 26, and 28, and permanent title to Seawall Lot 330, assuming that the Event Authority has met certain spending threshold on infrastructure improvements, as discussed below.

Table 1 below compares the short term and long term venues contained in the Host and Venue Agreement and the proposed DDA.

Table 1
Short and Long Term Venues
Comparison of the Host and Venue Agreement, as Modified, and the Proposed DDA

Host and Venue Agreement	Proposed DDA
<u>Short Term Venues ¹</u>	<u>Short Term Venues ¹</u>
Piers 19 and 19 ½, 23, 27, 29, 80	Piers 19, 19 ½, 23, 27, 29, 80 <i>Adds: Pier 29 ½</i>
Brannan Street Wharf	Brannan Street Wharf
Water areas surrounding: Piers 14 – 22 ½ Piers 32-38	Water areas surrounding: Pier 14 North and South Pier 32 to the edge of Pier 38 Pier 9 (subject to termination or renegotiation of existing tenancies)
<u>Long Term Venues ²</u>	<u>Long Term Venues ²</u>
Pier 26	Pier 26
Pier 28	Pier 28
	Pier 29 ³
Piers 30-32	Piers 30-32
Seawall Lot 330	Seawall Lot 330

¹ Short term venues: Event Authority has exclusive and non-exclusive use up to six months after the final series of races.

² Long term venues: Event Authority has exclusive use for variable periods from Spring 2012 up to six months after the final series of races. Event Authority would (a) have the option of 66-year leases for Piers 26, 28, and 30-32, and (b) receive title for Seawall 330, as discussed in detail below.

Infrastructure Work to be Performed by the Port and Event Authority

Port Infrastructure Work

The proposed DDA requires the following infrastructure work to be performed by the Port:

- Demolish and remove Pier 36 shed by January 1, 2013. The Port entered into an agreement with the Army Corps of Engineers to demolish and remove Pier 36 for this purpose.
- Construction of Brannan Street Wharf by no later than June 30, 2013. The Port has entered into an agreement with a contractor for this purpose.
- Relocate Pier 27 shoreside power⁴. The Port has entered into an agreement for this purpose. Although this is a Port obligation, the proposed DDA requires the Event Authority to pay up to \$2 million for shoreside power relocation.

³ The Event Authority has long term development rights to Pier 29 if this site is necessary to reimburse investments, as noted below.

- Demolish the Pier 27 shed. This had been the responsibility of the Event Authority under the Host and Venue Agreement, but according to Port staff, was changed at the Port's request to accommodate the Port's construction schedule for the Pier 27 Cruise Terminal project.
- Completion of Pier 27 Improvements by the Port. Under the proposed DDA, if construction of Phase I of the Pier 27 Cruise Terminal falls behind schedule, the Port must present a plan to the Event Authority to expedite construction, such as funding additional construction shifts. If the Port has insufficient funds for that purpose, the Event Authority may fund the expedited construction, with reimbursement as part of Authority Infrastructure Work.

Infrastructure Work to be Performed by the Event Authority

Under the proposed DDA, the Event Authority must make certain infrastructure improvements to Port properties prior to the Event (or "Pre-Match Authority Infrastructure Work"), and has the option to make certain infrastructure improvements to Port properties after the Event ("Deferred Authority Infrastructure Work"). Infrastructure improvements to Port properties made by the Event Authority are fully reimbursable by the Port through the granting of long term leases and development rights to the Event Authority.

The Event Authority's infrastructure obligations under the proposed DDA are classified as:

- Pre-Match Authority Infrastructure Work;
- Dredging for spectator vessels prior to the Event (considered to be "Additional Work");
- Deferred Authority Infrastructure Work to Piers 30-32 performed up to ten years after the Event; and
- Deferred Additional Work to Piers 26 and 28 performed up to ten years after the Event.

Pre-Match Authority Infrastructure Work and Dredging for Spectator Vessels prior to Event

The proposed DDA requires the Event Authority to spend at least \$55 million on Pre-Match Authority Infrastructure Work, all of which is fully reimbursable by the Port through the granting of long-term leases and development rights to Port property and other reimbursement mechanisms. Pre-Match Authority Infrastructure Work includes:

- Improvements to Piers 30-32, including pile replacements, substructure strengthening (which may include seismic strengthening) and deck repairs necessary to use the venue for the Event, consistent with the Host and Venue Agreement.
- Construction of a new Pier 29 end wall, previously included in the Host and Venue Agreement, and Pier 29 substructure repairs, which were not specifically included in the Host and Venue Agreement.

⁴ Cruise ships can connect to shoreside power at Pier 27, using electricity generated by the Public Utilities Commission, rather than generate power on ship using diesel or other generators.

- Up to \$2 million payment to the Port for relocation of Pier 27 shoreside power.
- Pile replacement, substructure strengthening, deck repairs, or superstructure strengthening or other improvements deemed necessary for the Event by the Event Authority at its discretion. This work must be pre-approved by the Port and is fully reimbursable.
- Dredging to accommodate the races and the racing boats (the "regatta").

In addition, the Pre-Match scope of work under the proposed DDA includes dredging and pile removal adjacent to Pier 9, Pier 14 North and South, and in the Brannan Street Open Water Basin to accommodate spectator vessels. The Event Authority's expenditures for such work generates rent credits that can be applied to offset rent at proposed marina leases between Piers 14 and 22 ½ and between Piers 30-32 and Pier 38 (Brannan Street Open Water Basin).

The proposed DDA includes the following work within the definition of Authority Infrastructure Work, which was not specifically listed in the Host and Venue Agreement, including:

- Improvements to Port property imposed as a regulatory condition of approval by the Bay Conservation and Development Commission (BCDC) or other non-City agencies.
- Mitigation measures, which result in improvements to Port property, and are included in the Mitigation Monitoring and Reporting Program, adopted by the Port Commission and proposed to be adopted by the Board of Supervisors, in accordance with the California Environmental Quality Act (CEQA).
- Pier 29 substructure repairs. According to Port staff, in the course of due diligence inspection, several pilings were found to be deteriorated or missing, requiring repairs prior to the Event.

Deferred Authority Infrastructure Work and Additional Work to be Performed by the Event Authority after the Event

The proposed DDA provides for:

- Deferred Authority Infrastructure Work for Piers 30-32, determined by the Event Authority to not be necessary to complete prior to the Event, up to 10 years after the Event. Authority Infrastructure Work deferred until after the Event is not included in the required \$55 million expenditures by the Event Authority for infrastructure work prior to the Event, noted above. Any Event Authority expenditures for Deferred Authority Infrastructure Work to Piers 30-32 after the Event is in addition to the \$55 million and is fully reimbursable by the Port through the granting of long term leases, development rights, and other reimbursement mechanisms.
- Deferred Additional Work for Piers 26 and 28, with estimated costs of \$15 million and \$10 million respectively. This work may be deferred up to 10 years after the Event. If any Piers 26 and 28 infrastructure work is conducted prior to the Event, costs for any part of this work will be included in the Event Authority's \$55 million pre-Match expenditure for Authority

Infrastructure Work, and excluded when considering the Event Authority's post-Match investment at Piers 26 and 28.⁵

Table 2 compares the proposed DDA and Host and Venue Agreement requirements for infrastructure work to be performed by the Port and the Event Authority.

Table 2
Event Authority and Port Infrastructure Work
Comparison of the Host and Venue Agreement, as Modified, and the Proposed DDA

Host and Venue Agreement	Proposed DDA
<u>Port Work</u>	<u>Port Work</u>
Demolition of Pier 36 by January 1, 2013	Same
Completion Brannan Street Wharf by June 30, 2013	Same
Pier 27 shoreside power relocation with \$2 million Event Authority contribution	Same
	<i>Adds:</i> demolition of Pier 27 shed
<u>Authority Infrastructure Work prior to Event</u>	<u>Authority Infrastructure Work prior to Event</u>
Piers 30-32 piles, substructure, decks	Same
Demolish portions of Pier 27 and Pier 29, including Pier 27 shed	<i>Removes:</i> demolition of portions of Pier 27 shed <i>Adds:</i> repair of Pier 29 substructure
Payment of \$2 million for Pier 27 shoreside power relocation	Same
	<i>Adds:</i> BCDC and other non-City regulatory conditions of approval, resulting in improvements to Port property
Other work required to host the Event	<i>Adds:</i> CEQA Mitigation Monitoring and Reporting Program, , resulting in improvements to Port property
Dredging and pier improvements to accommodate the regattas	Same
Other repairs to Event venues with the Port's permission, excluding marinas; may include Piers 26 and 28	Same
Dredging and pile removal between Pier 14 and 22 1/2; and Piers 30-32 and 38 for marinas to accommodate spectator vessels	Dredging and pile removal adjacent to Pier 9, Pier 14 North and South, and between Pier 32 and Pier 38 (Brannan Street Open Water Basin) to accommodate spectator vessels

⁵ Although the proposed DDA provides for infrastructure improvements to Piers 26 and 28 prior to the Event, and includes the Event Authority's expenditures for such work to be included in the reimbursement plan for Event Authority expenditures of at least \$55 million prior to the Event, the proposed scope of work to be performed by the Event Authority prior to the Event does not include infrastructure improvements to Piers 26 and 28.

**Table 2 (continued)
Event Authority and Port Infrastructure Work
Comparison of the Host and Venue Agreement, as Modified, and the Proposed DDA**

Host and Venue Agreement	Proposed DDA
<u>Additional Work to Piers 26 and 28</u>	<u>Additional Work to Piers 26 and 28</u>
Repair, replace, and improve Piers 26 and 28	Same
Additional Work to Piers 26 and 28 counted toward \$55 million Authority Infrastructure Work if conducted before Event	Same
<u>Deferred Work to Piers 30-32 and Piers 26-28</u>	<u>Deferred Work to Piers 30-32 and Piers 26-28</u>
Allows Piers 30-32 work to be deferred up to 5 years	Allows Piers 30-32 work to be deferred up to 10 years
Allows Piers 26 and 28 work to be deferred up to 10 years	Same

Long Term Leases and Development Rights

The proposed DDA gives the Event Authority long-term development rights to Port property in exchange for making infrastructure investments to Port properties. Tables 3 and 4 below compare the Host and Venue Agreement and proposed DDA provisions for long term leases and development rights.

Long Term Leases and Development Rights for Pre-Match Authority Infrastructure Work and Deferred Authority Infrastructure Work to Piers 30-32

Under the proposed DDA, in exchange for the \$55 million in Pre-Match Authority Infrastructure Work, as well as dredging for spectator vessels or Piers 26 and 28 infrastructure work completed prior to the Event, the Port will:

- Enter into a rent-free 66-year lease with the Event Authority for Piers 30-32. The Port and Event Authority will negotiate a term sheet for the Piers 30-32 lease, which will be submitted to the Board of Supervisors for endorsement.⁶ The final lease will be subject to Board of Supervisors approval under Charter Section 9.118.
- Transfer title to Seawall Lot 330, a 2.8 acre lot at the corner of Bryant Street and the Embarcadero, to the Event Authority with no cash contribution to the Port. According to the proposed DDA, the Port intends to submit the transfer of title to Seawall Lot 330 and

⁶ In the Budget Analyst's 2004 *Management Audit of the Port of San Francisco*, we recommended that term sheets for development projects with costs greater than \$10 million to be submitted to the Board of Supervisors for endorsement in order for the Board of Supervisors to consider the financial goals of the project prior to approval of the final lease.

approval of the formation of the infrastructure financing district (see below) to the Board of Supervisors for approval prior to September 30, 2012.⁷

If the Event Authority's investment in Pre-Match Authority Infrastructure Work exceeds \$55 million, the Port will reimburse the Event Authority exclusively from the following sources in order of priority, until the rent credits or other reimbursements have fully reimbursed the Event Authority's investment:

- (a) Infrastructure financing district tax-increment bond proceeds for these specific sites;
- (b) 10 year leases for Piers 26 and 28 with rent credits;
- (c) 10 year lease for Pier 29 with rent credits;
- (d) 66-year lease for Pier 29 with rent credits; and
- (e) Participation of 50 percent of the proceeds of a subsequent lease of Piers 30-32 payable by the Port to the Event Authority up to 15 years after the termination of the 66-year lease and return of Piers 30-32 to the Port.

These provisions represent a change from the original Host and Venue Agreement, as approved by the Board of Supervisors on December 14, 2010, which allowed for Port reimbursement only through rent credits on long term leases for Piers 30-32 and Piers 26 and 28, and transfer of title to Seawall Lot 330. Subsequent to the Board of Supervisors' approval of the Host and Venue Agreement, the Mayor and City officials modified the agreement to extend long term development rights to the short term venues, which included Piers 19 and 19 ½, Pier 23, and Pier 29.⁸ Piers 19, 19 ½, and 23 were subsequently removed as long term lease sites under the proposed DDA.

⁷ In September 2011, the State Legislature finally approved Assembly Bill (AB) 418, removing certain State restrictions from Seawall Lot 330, allowing for the transfer of title to the Event Authority.

⁸ Although Piers 27 and 80 were short term venues but were subject to limitations due to the construction of the Cruise Terminal on Pier 27 and the Port's breakbulk cargo operations on Pier 80. Under the modified Host and Venue Agreement, the City had sole discretion over long term leases for Piers 19 and 19 ½ and Pier 23 but not over a long term lease for Pier 29.

**Table 3
Development and Transfer Rights: Pre-Match Authority Infrastructure Work
Comparison of the Host and Venue Agreement, as Modified, and the Proposed DDA**

Host and Venue Agreement	Proposed DDA
<p><u>Piers 30-32 and Seawall Lot 330</u></p> <p>66-year lease for Piers 30-32 and transfer of Seawall Lot 330 free of public trust restrictions, contingent on \$55 million investment in Pre-Match Authority Infrastructure Work</p> <p>Long-term leases for Piers 26, 28, and 29, marina leases, rent credits, and infrastructure financing in if Event Authority invests if Authority Infrastructure Work and Additional Work in excess of \$55 million</p> <p>If value of these leases, rent credits, and infrastructure financing are less than the Event Authority's investment in Authority Infrastructure Work and Additional Work in excess of \$55 million, the balancing options are:</p> <ul style="list-style-type: none"> (a) reduce the scope of work, (b) receive increased rent credits, (c) revise the financial terms of the long-term leases subject to Port approval, (d) obtain long-term leases for some of the short-term venues (to which rent credits would apply), (e) obtain 66-year leases for Piers 26 and 28 without performing the required infrastructure work (estimated at \$15 million and \$10 million respectively), or (f) obtain shorter-term leases for Piers 26 and 28 in which the value of the Port's parameter rents for the leased properties equals the outstanding rent credits owed to the Event Authority 	<p><u>Piers 30-32 and Seawall Lot 330</u></p> <p>Same</p> <p>Authority Infrastructure Work in excess of \$55 million would be credited to the Event Authority exclusively from the following sources in order of priority:</p> <ul style="list-style-type: none"> (a) tax increment bond proceeds from the proposed infrastructure financing district for Piers 30-32 and Seawall Lot 330⁹, (b) short-term leases up to 10 years for Piers 26 and 28 with the rent credits against base rent starting at the Port's parameter rents with annual CPI adjustments,¹⁰ (c) short-term lease up to 10 years for Pier 29 with the rent credits against base rent starting at the Port's parameter rents with annual CPI adjustments, (d) 66-year lease for Pier 29 with rent against base rent commencing at \$6 per square foot escalated to the lease commencement date with periodic CPI adjustments and reset to market rate after rent credits are exhausted, and (e) If needed to reimburse the Event Authority, participation of 50 percent of the proceeds of a subsequent lease of Piers 30-32 payable by the Port to the Event Authority up to 15 years after the termination of the 66-year lease and return of Piers 30-32 to the Port

Leases and Development Rights for Deferred Additional Work to Piers 26 and 28

Under the proposed DDA, if the Event Authority performs Deferred Additional Work, the Port will reimburse the Event Authority for those costs through 66-year leases for Piers 26 and 28, with payment of rent credits up to the amount of the Deferred Additional Work. Term sheets for long-term leases will be submitted to the Board of Supervisors for endorsement. Leases will be subject to Board of Supervisors approval under Charter Section 9.118.

⁹ The Port estimates that the tax-increment bonds would be issued in approximately 2021.

¹⁰ The Port Commission annually approves a schedule of rents (parameter rents) for each type of Port property and use.

If rent credits for the 66-year leases for Piers 26 and 28 are not sufficient to reimburse the Event Authority for Deferred Additional Work, the Port will reimburse the Event Authority in the following order of priority:

- (a) Infrastructure financing district tax-increment bonds for these specific sites;
- (b) Historic preservation tax credits for these specific sites;
- (c) Marina leases for potential marina developments at Pier 54, Brannan Street Open Water Basin, or other locations (see below); and
- (d) If necessary to reimburse the Event Authority for Deferred Additional Work, participation of 50 percent of the proceeds of subsequent leases of Piers 26 and 28 payable by the Port to the Event Authority up to 15 years after the termination of the 66-year leases and return of Piers 26 and 28 to the Port.

Pier 54 and Marina Rent Credits

Under the proposed DDA, the Event Authority has conditional rights to rent credits for marinas to be located at Pier 54 and Brannan Street Open Water Basin, or another location in exchange for dredging for spectator vessels (noted above), and repairs or improvements to the Pier 54 substructure. Rent credits for dredging work may be used to offset rents for potential marina leases, or to offset rent for 66-year leases for Piers 26 and 28. Rent credits for Pier 54 substructure repairs or improvements may only be used for a marina lease at Pier 54.

**Table 4
Development Rights: Piers 26 and 28 and Marinas
Comparison of the Host and Venue Agreement and the Proposed DDA**

Host and Venue Agreement	Proposed DDA
<p><u>Piers 26 and 28</u></p> <p>66-year lease for Piers 26 and 28 contingent on investments in Additional Work of \$25 million;</p> <p>Event Authority reimbursed for Additional Work through rent credits</p> <p>Excludes any Piers 26 and 28 infrastructure work performed prior to the Event and reimbursed as part of the Authority Infrastructure Work (noted above)</p> <p>Additional Work would be credited to the Event Authority through (a) rent credits, (b) infrastructure district financing, (c) historic preservation tax credits, and (d) rent credits for proposed marinas</p>	<p><u>Piers 26 and 28</u></p> <p>Same</p> <p>Same</p> <p>Same</p> <p><i>Adds:</i> 50 percent participation rent payable by the Port to the Event Authority up to 15 years after the termination of the 66-year lease for Piers 26 and 28, or at the Port's election, a funding source to rehabilitate historic resources at these site with an equal value</p>
<p><u>Piers 26 and 28</u></p> <p>Long-term leases and development rights to Piers 19, 23, and 29, and other short term venues, including, with some exceptions, Piers 27 and 80, in exchange for the Event Authority's investment in Authority Infrastructure Work or Additional Work</p>	<p><u>Piers 26 and 28</u></p> <p><i>Removes:</i> development rights for all piers other than Piers 26 and 28 and marina leases, including Piers 19-19 ½, and 23</p>
<p><u>Marinas</u></p> <p>Exclusive negotiating agreements for long-term marina leases in the areas between Piers 14 and 22 ½, and between Piers 30-32 and Pier 38; dredging costs reimbursed through rent credits</p>	<p><u>Marinas</u></p> <p>Exclusive negotiating agreements for long-term marina leases for Pier 54 and Brannan Street Open Water Basin; Pier 54 substructure repair costs, and dredging costs reimbursed through marina lease rent credits at Pier 54 only</p>

Assignment of Long-term Leases

The Host and Venue Agreement allows the Event Authority to assign the long-term leases to Event Authority affiliates without further Port approval. The Port must approve the Event Authority's assignment of long-term leases to parties other than Event Authority affiliates. No Port consent is required for subleases. The Port does not participate in any revenues received by the Event Authority for assigning the long-term leases to other parties. Under the original Host and Venue Agreement, approved by the Board of Supervisors on December 14, 2010, the Port participated in 15 percent of the net proceeds of each assignment of the long-term leases after the first assignment.

Rents

Under the proposed DDA, the Event Authority has up to 10 years to enter into long-term leases for Piers 30-32, Piers 26 and 28, and if needed to offset the costs of Authority Infrastructure Work, Pier 29. Under the original Host and Venue Agreement approved by the Board of Supervisors on December 14, 2010, base rent for the long-term leases was to be set at a fair market rent established through an appraisal process. The modified Host and Venue Agreement and proposed DDA establish starting rents based on negotiated rates, as follows:

- \$4 per square foot per year of gross building area for Piers 30-32, although Piers 30-32 would be delivered to the Event Authority rent-free under the terms of the proposed 66-year lease in exchange for the Event Authority's investment in Authority Infrastructure Work prior to the Event.
- \$6 per square foot per year of gross building area for all other piers with long-term leases. Under the proposed DDA, rents may be adjusted every five years by the CPI with minimum increases of 10 percent and maximum increases of 20 percent.

The proposed DDA provides that if the lease commencement for Pier 29 is delayed for up to 10 years, the base rent for Pier 29 is increased by (or "indexed to") the CPI. No other leases covered under the proposed DDA provide for indexing base rents to the CPI if the lease commencement date is delayed up to ten years.

If applicable, rents in the 66-year leases for Piers 26, 28, and 29 are adjusted to fair market rental rates after 30 years or once rent credits have been fully applied, whichever is later.

Also, under the proposed DDA and consistent with the modified Host and Venue Agreement:

- The Event Authority does not pay construction period rent. According to Port staff, this provision is consistent with the original Host and Venue Agreement requirement that the long term leases be commercially reasonable, and provide terms comparable to other Port development leases, in which tenants do not pay construction period rent.
- The Port cannot collect participation rent. The original Host and Venue Agreement allowed the Port to collect transfer fees (a) equal to 1 percent of the sale price for the resale (i.e., excluding the first sale) of condominiums constructed on Seawall Lot 330, and (b) 15 percent of the net proceeds of each transfer or sublease of more than 55 percent of the Event Authority's interest in long-term leases from the Event Authority to other parties, excluding the first transfer.

Interim Leases

Under the proposed DDA, the Event Authority may retain exclusive use of any long-term development sites during the interim period up to 10 years after the expiration of the venue leases and commencement of long term leases. Interim uses allowed under the Host and Venue Agreement include any existing or prior use, such as parking, or other uses consistent with the Public Trust and CEQA.

Rent during the interim period is:

- \$910,225, adjusted by annual CPI increases, for Piers 30-32; and
- The Port's then-effective parameter rental rate for pier warehouse sheds for Piers 26 and 28.

During the interim period of up to 10 years, the Event Authority will receive rent credits for Authority Infrastructure Work greater than \$55 million, which can be used to offset the interim base rent at Piers 26, 28 and 29 but not Piers 30-32, as shown in Table 3.

Transferring Long Term Sites to the City

Under the proposed DDA, consistent with the modified Host and Venue Agreement, although the Event Authority retains rights to the long-term development sites, the Event Authority may return some or all of the long-term development sites to the Port at any time in the ten-year period after the Event. The Port must return these long-term development sites to the Event Authority within 180 days if the Event Authority requests the return.

This provision was not included in the original Host and Venue Agreement, approved by the Board of Supervisors on December 14, 2010. According to the Budget and Legislative Analyst's report, dated March 16, 2011, this provision would result in previously unanticipated costs to the Port and a likely loss of base rent revenue (or drawing down of rent credits owed to the Event Authority). After the venue leases expire, the Port would have to attract new tenants to the properties transferred back from the Event Authority to the City for an uncertain amount of time, cover maintenance cost on the properties during that period, and cause tenants to be moved of the properties upon request of the Event Authority. The Port would be unlikely to collect the same level of rent from tenants for these properties that the Port would otherwise have received from the Event Authority.

Infrastructure Financing and Community Facilities Districts

The Host and Venue Agreement and proposed DDA require creation of infrastructure financing districts to issue tax increment¹¹ bonds that will reimburse the Port and the Event Authority for (a) infrastructure repairs, replacement, and improvement costs not previously reimbursed by rent credits; (b) public improvements such as environmental remediation, shoreline improvements; and (c) substructure and other improvements to the piers. The State Legislature authorized San Francisco to establish infrastructure financing districts on Port property (SB 1085 in 2005, modified by AB 664 in 2011). Approval of the proposed resolution (File 12-0128) would confirm Board of Supervisors intent to establish an infrastructure financing district on Port property, which would designate initially eight project areas, covering Piers 30-32, Seawall Lot 330, Pier 26, Pier 28, Pier 48, Pier 70, Seawall Lot 337 and Seawall Lot 351. The Port will submit future legislation to the Board of Supervisors to approve financing plans for each project area.

¹¹ Tax increment is the increase in Property Tax due to the development of Piers 30-32 and Seawall Lot 330.

The Host and Venue Agreement and proposed DDA obligate the Event Authority and City to form a community facilities district comprising Piers 30-32 and Seawall Lot 330, and levy maintenance taxes to fund ongoing maintenance costs for the Brannan Street Wharf.

Successor Events

If the Golden Gate Yacht Club successfully defends the 34th America's Cup, and the City and the Golden Gate Yacht Club enter into a new host and venue agreement to host the 35th America's Cup, the Event Authority may extend its use of the venues. The proposed DDA adds a provision allowing either the Event Authority or the City to terminate further negotiations if they have not agreed to the terms of a new host and venue agreement, despite good faith negotiations, within six months after the Event.

Indemnity

Section 15 of the Host and Venue Agreement provided for the City and Event Authority to negotiate over mutual indemnity provisions to be included in the DDA. The proposed DDA includes provisions consistent with the Host and Venue Agreement. Section 2.6 of the proposed DDA states that the Event Authority and the City "must indemnify" each other for any losses resulting from the Event, unless the losses were caused by negligence or willful misconduct. According to the proposed DDA, the venue leases and licenses between the Port and the Event Authority for use of the Port's property will govern the Event Authority's and City's indemnification obligations relating to hazardous materials affecting any Port venue. According to Ms. Joanne Sakai, Deputy City Attorney, these provisions, along with each party's insurance requirements, as described in Section 2.7 of the DDA, are still under review and subject to further negotiations.

FISCAL IMPACT

The proposed DDA does not sufficiently cap the Event Authority's reimbursable costs for Authority Infrastructure Work or Additional Work. As a result, the Port could potentially reimburse the Event Authority for such costs up to 91 years after the Event.

Authority Infrastructure Work

Estimated Costs

Estimated costs for Authority Infrastructure Work and Additional Work performed by the Event Authority prior to the Event are approximately \$111,306,520, which is \$56,306,520 or 102 percent more than the original estimated costs of \$55,000,000 under the original Host and Venue Agreement, as shown in Table 5 below.

Table 5
Pre-Match Authority Infrastructure Work, Dredging for Spectator Vessels, and Deferred Authority Infrastructure Work

	Host and Venue Agreement	Proposed DDA	Increase
Pre-Match Authority Infrastructure Work			
Piers 30-32 infrastructure repairs and seismic upgrades	At least	\$59,400,000	
Demolition of portions of Pier 27 and 29	\$55,000,000,	n/a	
Piers 19, 23, 27 and 29 improvements as necessary	including	1,850,000	
	\$2,000,000		
	for Pier 27		
	shoreside		
Pier 27 shoreside power relocation	power	2,000,000	
Subtotal	55,000,000	63,250,000	8,250,000
BCDC and other regulatory conditions of approval	0	5,200,000	
CEQA Mitigation Monitoring, and Reporting Program	0	700,000	
Piers 32-36 dredging for regattas	0	2,500,000	
Fees, permitting, contingencies, design, engineering	0	3,856,250	
Subtotal		12,256,250	12,256,250
Subtotal Pre-Match Authority Infrastructure Work	55,000,000	75,506,250	20,506,250
Dredging for Spectator Vessels			
Pier 9, Piers 14 North and South, Pier 28 South, and portions of Piers 32-38 Basin dredging for spectator vessels	0	3,700,000	
Subtotal Dredging	0	3,700,000	3,700,000
Pre-Match Authority Infrastructure Work/ Dredging	55,000,000	79,206,250	24,206,250
Estimated Authority Infrastructure Work after the Event			
Seismic upgrades to Piers 30-32	0	32,100,000	32,100,000
Deferred Authority Infrastructure Work		32,100,000	32,100,000
Total	\$55,000,000	\$111,306,250	56,306,250

According to Port staff, estimated costs under the proposed DDA, compared to the Host and Venue Agreement, have increased due to more detailed cost information and inclusion of new Event Authority costs that were not specifically included in the Host and Venue Agreement, approved by the Board of Supervisors on December 14, 2012.

- Seismic piles and joints to Piers 30-32 prior to the Event; transfer of responsibility for demolishing the Pier 27 shed from the Event Authority to the Port; and substructure improvements to Pier 29 (\$8,250,000);
- Improvements to Port property due to BCDC and CEQA requirements; and Piers 30-32 dredging for regattas included in the modified Host and Venue Agreement, which are costs that were not explicitly provided for in the previously approved Agreement. (\$12,256,250);
- Dredging for spectator vessels, which according to Port staff, would result in long term benefits to the Port through development of new marina leases (see "Pier 54 and Marina Rent Credits" above) (\$3,700,000); and

- Future seismic upgrades to Piers 30-32 to accommodate the Event Authority's long-term development, for which, according to Port staff, costs are currently being assessed, and which will require future seismic design and engineering work (\$32,100,000).

The original Host and Venue Agreement, approved by the Board of Supervisors on December 14, 2010, provided for the Event Authority to make all pile replacement, substructure strengthening, and deck repairs on Piers 30-32, as may be required by applicable laws, and other work for staging of the Event, or as the Event Authority otherwise deems necessary or appropriate under the applicable venue leases. According to Port staff, improvements to Port property due to BCDC and CEQA requirements are consistent with this provision.

Reimbursement

The Port will reimburse the Event Authority for Pre-Match Authority Infrastructure Work of \$55,000,000 through the 66-year rent free lease for Piers 30-32 and transfer of title to Seawall Lot 330, as shown in Table 6 below. The Port will reimburse the Event Authority for Pre-Match Authority Infrastructure Work and dredging for spectator vessels prior to the Event, which exceeds \$55,000,000, through infrastructure financing bond proceeds, and rent credits. Interest accrues on the balance of the Event Authority's reimbursements owed through rent credits, at 11 percent per year.

Table 6
Reimbursement to Event Authority for Authority Infrastructure Work and Deferred Authority Infrastructure Work

	Net Present Value¹²
66-Year Lease for Piers 30-32 (rent free)	\$31,000,000
Transfer of Title to Seawall Lot 330	24,000,000
Subtotal	55,000,000
Infrastructure Financing District Bond Proceeds	10,400,000
10-Year Lease Piers 26 and 28 (rent credits)	11,000,000
10-Year Lease Pier 29 (rent credits)	4,700,000
66-Year Lease for Pier 29 (rent credits)	7,600,000
Subtotal	33,700,000
Total	\$88,700,000

If the value of the Pre-Match Authority Infrastructure Work, and Deferred Authority Infrastructure Work are greater than the value of the rent credits and other reimbursements shown in Table 6 above, the proposed DDA provides for the Port to pay a participation of 50 percent of the proceeds of a subsequent lease of Piers 30-32 to the Event Authority up to 15 years after the termination of the 66-year lease and return of Piers 30-32 to the Port.¹³

¹² Net present value discounts lease payments in future years to reflect the time value of money (i.e., the value of a dollar in the future is less than the value of a dollar in the present).

¹³ If the scope of work prior to the Event were to include infrastructure work to Piers 26 and 28, defined as Additional Work, the expenditures for this work would be included.

The Port's Opportunity Costs

The long term leases for Piers 26, 28, and 29 result in opportunity costs of approximately \$5,400,000¹⁴ to the Port because the value of the rent credits to reimburse the Event Authority are less than the rents that the Port would otherwise receive from Piers 26, 28, and 29.

Deferred Additional Work to Piers 26 and 28

The proposed DDA grants the Event Authority 66-year leases for Piers 26 and 28 in exchange for infrastructure investments estimated to be approximately \$15 million and \$10 million respectively. These investments may be made up to 10 years after the Event. The Event Authority's actual expenditures for this work will be based on the scope of work approved by the Port. While the proposed DDA deems infrastructure work to Piers 26 and 28 to be "Authority Infrastructure Work" if it is necessary for and performed prior to the Event, the approved scope of work for the Event does not currently include this work.

**Table 7
Reimbursement to Event Authority for Additional Work**

	Net Present Value
66-Year Leases Piers 26 and 28 (rent credits)	\$15,100,000
Infrastructure Financing District Bond Proceeds	3,700,000
Historic Preservation Tax Credits	20,000,000
Total	\$38,800,000

If the value of the Additional Work performed is greater than the value of the rent credits and other reimbursements, shown in Table 8 above, the proposed DDA provides for the Port to pay a participation of 50 percent of the proceeds from a subsequent lease for Piers 26-28 to the Event Authority up to 15 years after the termination of the 66-year leases and return of Piers 26 and 28 to the Port. Interest accrues on the value of the Event Authority's expenditures, reimbursable by rent credits and other reimbursement mechanisms, at 11 percent per year.

No-Fault Termination of DDA

If for any reason, other than a Port Event of Default or Event Authority Event of Default (such as major casualty), the DDA is terminated, the Event Authority will be able to recover its investment costs from the following exclusive sources, to the extent available:

- (a) Insurance proceeds, including any FEMA (Federal Emergency Management Act) funds;
- (b) 10-year (or longer if legally permitted) interim lease of Piers 30-32 for parking;
- (c) 66-year lease of Piers 30-32 with base rent beginning at \$4 per square foot, indexed every 5 years, and adjusted to fair market rent at the later of the date the rent credits are exhausted or 30 years; and
- (d) Portion of infrastructure district financing proceeds from future development of Piers 30-32.

¹⁴ Net present value of the difference between the value of the rent credits over 76 years (10 year leases plus 66 year lease) and the rents that the Port would otherwise have received.

Limits on Reimbursement Imposed by the DDA

According to Port staff, the proposed DDA better protects the Port financial interests than the Host and Venue Agreement because the Event Authority has defined long-term development rights to fewer Port properties. Under the proposed DDA, the Event Authority only has long-term development rights to Piers 30-32, 26, 28, and 29, while under the Host and Venue Agreement, the Event Authority also had long-term development rights to Piers 19, 19 ½, 23, and other short term venues, as well as non-exclusive repayment options. However, under the proposed DDA, the Event Authority receives rent credits or participation rent from the Port for up to 91 years after the Event, as discussed above.

Additionally, the proposed DDA contains a provision that allows the Port and the City to pay directly for or purchase improvements that exceed \$55 million if the Port and City exercise this option within 180 days of the Port's approval Event Authority's scope of work. The Port has five years to after completion of the infrastructure work to pay the purchase price for the infrastructure work, but the purchase price increases by 11 percent per year. The Port can also directly pay the contractors performing the infrastructure work. The value to the Port and the City to exercise this option is unclear and depends on (a) the Port's costs to borrow funds to pay for the work; and (b) the Event Authority's actual expenditures for the work and the amount of rent credits owed to the Event Authority.

The City's costs for hosting the Event may exceed (i) contributions from the America's Cup Organizing Committee (ACOC), and (ii) sales tax, hotel tax, and other revenues generated by the Event

The City's costs for hosting the 34th America's Cup are estimated to be approximately \$51,670,810, as shown in Table 9 below. These costs include planning, environmental review, lost rent and other Port expenses, City departments' costs during the Event, and reimbursement to regional transit agencies. As of the writing of this report, City department expenditures are \$3,576,298.

Memorandum of Agreement

The proposed resolution approves a Memorandum of Agreement (MOA) between the City and the Event Authority, allocating the respective responsibilities of the City and the Event Authority under the Mitigation Monitoring and Reporting Program. The Mitigation Monitoring and Reporting Program contains measures to be performed by the City and Event Authority to mitigate the environmental impacts of the Event and long term development projects. Under the MOA, the City is responsible for all mitigation measures directed to the City and the Event Authority is responsible for all mitigation measures directed to the Event Authority. In some instances, mitigation measures are directed to both the City and the Event Authority.

Under the proposed DDA, the Event Authority is only reimbursed by the Port for mitigation measures that result in improvements to Port property. These reimbursable costs of approximately \$700,000 are shown in Table 5 above.

The MOA defines shared costs for (a) implementing shoreside power at Pier 70, for which legislation is pending before the Board of Supervisors, (b) protection of recreational and natural resources, including the National Park Service and the Recreation and Parks Department, and (c) providing information to visiting boaters. Under the MOA, the City is responsible for the Pier 70 shoreside power project; reducing City vehicle emissions; providing traffic coordinators and shuttle buses at Marina Green and National Park Service sites; and certain responsibilities for the public safety plan, water and air traffic plan, and waste management plan. The City's costs for these responsibilities are included in City department, regional transit, and waste management costs in Table 8 below.

Table 8
Estimated City Costs to Host the 34th America's Cup

Cost Category	Budget
Costs to Plan Event, Including City Staff	
Office of Economic and Workforce Development Project Management	\$1,400,000
Environmental Review under CEQA	3,000,810
National Environmental Policy Act Compliance	2,200,000
Permitting	1,700,000
City Attorney and Other Legal	400,000
Other Federal Legislation	100,000
Subtotal, Planning	8,800,810
Port Costs	
Tenant Relocation	1,100,000
Lost Rent	6,380,000
Temporary Staffing, Security, Other	1,460,000
Subtotal, Port	8,940,000
Operational Fixed Costs	
Event Insurance	500,000
Communications	300,000
Bicycle Plan	600,000
Subtotal, Operational Fixed Costs	1,400,000
Operational Variable Costs	
Police	7,400,000
Fire	1,300,000
Emergency Medical Service	1,100,000
Muni	5,110,000
Parking and Traffic	3,200,000
Department of Public Works Clean Up	350,000
Reimbursement to Regional Transit	5,250,000
Waste Management	2,400,000
Subtotal, Operational Variable Costs	26,110,000
Total	45,250,810
Pier 27 Cruise Terminal General Fund Contribution	6,500,000
Total	\$51,750,810

Source: Port and OEWD

The Environmental Impact Report estimated 5.4 million visitor days during the Event. The Office of Economic and Workforce Development (OEWD) has estimated City costs for the Event of \$51,750,810, including City department, regional transit, and waste management costs during the Event, based on the EIR estimate of 5.4 million visitor days. City department, regional transit, and waste management variable costs of \$26,110,000, shown in Table 9, could be less if the Event has fewer than 5.4 million visitor days.

City costs of approximately \$51,750,810 will be offset by (a) additional hotel tax, payroll tax, sales tax, and parking tax revenues generated by 34th America's Cup activities, of approximately \$22,034,929¹⁵ and (b) potential contribution of \$32 million from the ACOC over three years under the Host and Venue Agreement. As shown below, the City will realize an estimated net benefit from hosting the Event of \$2,284,119 if the ACOC contributes the full \$32 million, which it has pledged to raise to offset the City's costs, and the Event generates the expected level of tax revenues. If the ACOC contributes only \$8,000,000, which is the amount estimated by the Controller to be currently available without further fundraising, the City will realize an estimated net loss from hosting the Event of \$21,715,881.

	If ACOC Contributes \$32,000,000	If ACOC Contributes \$8,000,000
Estimated Sales Tax, Hotel Tax, and Other Revenues	\$22,034,929	\$22,034,929
ACOC Contribution	32,000,000	8,000,000
Total Revenues to Offset City Costs	54,034,929	30,034,929
Estimated City Costs	(51,750,810)	(51,750,810)
Surplus/(Deficit)	\$2,284,119	(\$21,715,881)

The estimated loss of \$21,715,881 compares to the Budget and Legislative Analyst's estimates of potential net loss to the City from hosting the Event in the December 13, 2010 report to the Budget and Finance Committee of \$11,959,846.

POLICY CONSIDERATIONS AND ALTERNATIVES

The proposed DDA should be revised to reduce the impact on the Port's finances while continuing to reimburse the Event Authority for their risk and costs to improve Port properties

The proposed DDA should further cap the costs for Authority Infrastructure Work and Additional Work for which the Event Authority will be reimbursed by the Port. For the Port to retain Pier 29, the proposed DDA should be revised to limit reimbursement costs, as follows:

¹⁵ The Budget and Legislative Analyst's November 18, 2010 memorandum to the Board of Supervisors provided a range of tax revenue estimates, based on the number of race days and visitors, from a low of \$17.3 million to a high of \$30.4 million. \$22.0 million represents the base scenario, based on approximately 55 days of racing and 3.6 million visitor days.

- Under the proposed DDA, the Event Authority is reimbursed for Authority Infrastructure Work and Additional Work based on actual expenditures. This provision should be revised to require that reimbursement for Authority Infrastructure Work and Additional Work is based on estimates provided by a third party engineer.
- Estimated costs for approved seismic upgrades to Piers 30-32, to be performed as Authority Infrastructure Work up to 10 years after the Event, are \$32.1 million. The proposed DDA should be revised to require that the Port report to the Board of Supervisors prior to the future seismic upgrades to Piers 30-32 after the Event on the most fiscally effective options to perform such work, including whether the work should be performed by the Event Authority or the City.¹⁶

Additionally, the proposed DDA should be revised to eliminate the provisions in which the Port must pay participation rent of 50 percent up to 15 years after the termination of the 66-year leases for Piers 30-32, and 26 and 28 in order to reimburse the Event Authority for Authority Infrastructure Work and Additional Work that is not fully reimbursed by the respective leases. The net present value of these provisions is negligible, but these provisions will impact the Port up to 91 years into the future.

The Budget Analyst's 2004 Management Audit Recommendation

According to the Budget Analyst's 2004 Management Audit of the Port of San Francisco:

The Port enters into lease agreements that provide the developer a preferred return on equity (of approximately 11 to 12 percent) to encourage developers to make substantial capital investments in face of the large risks inherent in large, complex projects. Because the developer receives the preferred return on equity before the Port participates in the project's surplus income, the Port's financial return from the project is less certain....To reduce the uncertainty in rental revenues to the Port from large development projects.... there should be caps on the developer's equity contribution for calculating the developer's preferred return on equity.

According to Port staff and as noted above, the proposed DDA limits the number of Port properties for which the Event Authority has long-term development rights as reimbursement for expenditures for Authority Infrastructure Work and Additional Work, The Port Commission, in its December 16, 2011 approval action, approved Authority Infrastructure Work in an amount not to exceed \$75 million and spectator vessel dredging of \$3.7 million. The Port should continue to monitor proposed expenditures and the Board of Supervisors should consider imposing a cap on the Event Authority's total expenditures that are reimbursable by the Port.

¹⁶ For all proposed seismic work, the DDA requires the Event Authority to provide to the Port non-linear time history seismic analysis of Piers 30-32, to be peer-reviewed by the Port's consulting engineer. The Port's engineer must concur that the proposed upgrade meets, but does not substantially exceed, applicable code requirements, and the Chief Harbor Engineer must determine that the proposed work complies with the Port Building Code, before the work can proceed.

The Port should participate in the proceeds for future sales or property transfers

The original Host and Venue Agreement allowed the Port to collect transfer fees (a) equal to 1 percent of the sale price for the resale of condominiums constructed on Seawall Lot 330, and (b) 15 percent of the net proceeds of each transfer or sublease of more than 55 percent of the Event Authority's interest in long-term leases from the Event Authority to other parties, excluding the first transfer. These provisions do not significantly reduce the value of the Event Authority's investment in Port properties, are consistent with Port policy and industry standards, and would provide a fair return to the Port. The proposed DDA should be revised to restore these provisions.

The Event Authority should return short-term venues to the Port at the conclusion of the Event, but retain Piers 26 and 28 during the interim period between expiration of the venue leases and commencement of the longer term leases

The proposed DDA allows the Event Authority to retain use of Piers 19, 19 ½, 23, 29 and 29 ½ up to six months after the Event. The Event Authority does not have the right to longer term leases for Piers 19, 19 ½, and 23, and should return these venues to the Port immediately after the conclusion of the Event. This would reduce lost rent revenues to the Port, and reduce the City's potential General Fund reimbursement to the Port for lost rent revenues under the MOU between the City and the Port (File 10-1564).

Piers 29 and 29 ½ should also be immediately returned to the Port at the conclusion of the Event if the Event Authority does not incur Authority Infrastructure Work expenditures prior to the Event in an amount sufficient to enter into the 10-year lease for Pier 29, discussed above and shown in Table 6.

The proposed DDA allows the Event Authority to temporarily return 26 and 28 to the Port up to 10 years after the Event. If the Event Authority retains Piers 26 and 28, rent for these piers is based on the Port's parameter rents and will be offset by any rent credits owed to the Event Authority for Authority Infrastructure Work performed prior to the Event and exceeding \$55 million. Unless the Event Authority is not owed rent credits for Piers 26 and 28, and does not intend to perform additional work to Piers 26 and 28 in order to obtain long-term development rights, the Event Authority should retain Piers 26 and 28 during the interim period. Temporarily transferring Piers 26 and 28 to the Port during the interim period potentially results in a loss of rent to the Port, but requiring the Event Authority to retain Piers 26 and 28 during the interim period does not harm the Event Authority, who has the option of renting the properties to other tenants.

According to Port staff, the temporary transfer of Piers 30-32, which is used for parking, during the interim period does not necessarily result in lost revenue to the Port.

The proposed DDA should escalate base rents for Piers 26 and 28, based on the CPI

Under the proposed DDA, initial base rent for Pier 29 of \$6 per square foot per year is escalated by the CPI to the start date of the lease, then indexed every 5 years.. The proposed DDA should extend this provision, escalating initial base rents for Piers 26 and 28.

The ACOC has not met its fundraising target of \$12 million in the first year to reimburse the City for a portion of the City's costs

According to the Host and Venue Agreement:

The Committee (ACOC) will endeavor to raise up to \$32 million over a three year period from private sources, to reimburse the City for a portion of the City's costs...and lost revenues, and City expenditures required to meet its obligations...(including resources from police, and public works departments, the Port, DPT and MTA). The Committee's fundraising targets for the three year period are \$12 million for year one, and \$10 million for years two and three. The Committee will endeavor to meet its fundraising target of \$12 million for year one no later than seven working days after completion of the environmental review pursuant to CEQA.

According to the Controller's February 6, 2012 memorandum to the President of the Board of Supervisors, the ACOC has not paid the City any portion of the \$12 million in revenue that is assumed in the City's FY 2011-12 budget. According to the Controller, "Given reported and projected ACOC expenditures and pledges received to date, it would appear that the ACOC will be financially positioned to make a payment of approximately \$8 million to the City during the current fiscal year absent additional fundraising".

Under the Host and Venue Agreement, the City may terminate the Agreement if the ACOC fails to meet its year one fundraising target of \$12 million by seven days after the completion of the environmental review. The subject EIR was approved by the Board of Supervisors on January 24, 2012, resulting in a target date of January 31, 2012 to raise the \$12 million.

The proposed DDA would waive the City's termination rights

The proposed DDA includes a condition that all termination rights under Section 2 of the Host and Venue Agreement are waived. This includes the City's right to terminate the Host and Venue Agreement if the ACOC (a) fails to meet its year one fundraising target of \$12 million by January 31, 2012, and (b) does not obtain a \$32 million surety bond or other form of financial security required by the Host and Venue Agreement.

According to Ms. Sakai, under Section 9.3 of the Host and Venue Agreement, the ACOC is required to provide to the Event Authority a form of financial security satisfactory to the Event Authority in the amount of \$32 million, which was to protect the General Fund from liability by providing the exclusive source for the Event Authority's recovery (other than insurance proceeds) of any claims against the City for any alleged failure by the City to meet its obligations under the Host Agreement. As of the January 31, 2012 deadline, the financial instrument was not in place.

Mr. Mike Martin, America's Cup Project Manager, Office of Economic and Workforce Development, reports that ACOC has proposed to satisfy this requirement by providing the Event Authority with an escrow account in combination with an insurance product, but that

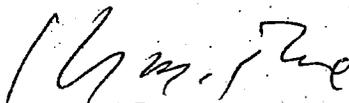
negotiations are ongoing as of the date of this report. Mr. Martin further reports that he has communicated the City's expectation that these negotiations are to be concluded prior to Board of Supervisors consideration of the Disposition and Development Agreement.

RECOMMENDATIONS

The Board of Supervisors should request the Executive Director of the Port to negotiate with the Event Authority to revise the proposed DDA to:

- For purposes of controlling the City's costs, require that reimbursement for all Authority Infrastructure Work and Additional Work is based on estimates provided by a third-party engineer rather than on actual expenditures.
- Require that the Port report to the Board of Supervisors prior to the future seismic upgrades to Piers 30-32 after the Event on the most fiscally effective options to perform such work, including whether the work should be performed by the Event Authority or the City.
- Eliminate the provisions, not included in the Host and Venue Agreement, as previously approved by the Board of Supervisors on December 14, 2010, in which the Port must pay participation to the Event Authority of 50 percent on revenues from subsequent leases for Piers 30-32 and Piers 26 and 28 up to 15 years after the termination of the 66-year leases and return of Piers 30-32 and Piers 26 and 28 to the Port.
- Impose a cap on the Event Authority's total expenditures that are reimbursable by the Port.
- Reinstate the provision, included in the Host and Venue Agreement, as previously approved by the Board of Supervisors on December 14, 2010, to require (i) a transfer fee equal to 1 percent of the sale price for the resale of condominiums (after the initial sale) constructed on Seawall Lot 330, and (ii) Port participation of 15 percent of the net proceeds of each transfer or sublease of more than 55 percent of the Event Authority's, or successor party's, interest in long-term leases from the Event Authority, or successor party, to other parties, excluding the first transfer.
- Require the return of short-term venues (Piers 19, 19 ½, 23, and 29 ½) to the Port immediately after the conclusion of the Event.
- Require the return of Pier 29 to the Port immediately after the conclusion of the Event if the Event Authority's Pre-Match Authority Infrastructure Work does not qualify for longer term leases for Pier 29.
- Require the Event Authority to retain Piers 26 and 28 unless the Event Authority's Pre-Match Authority Infrastructure Work or Deferred Additional Work does not qualify for longer term leases for Piers 26 and 28.
- Escalate the initial base rents for Piers 26 and 28 by the CPI prior to the start date of the longer term leases.

Approval of the proposed resolutions (File 12-0127 and File 12-0128) is a policy matter for the Board of Supervisors.



Harvey M. Rose

cc: Supervisor Chu
Supervisor Avalos
Supervisor Kim
President Chiu
Supervisor Campos
Supervisor Cohen
Supervisor Elsbernd
Supervisor Farrell
Supervisor Mar
Supervisor Olague
Supervisor Wiener
Clerk of the Board
Cheryl Adams
Controller
Kate Howard

**KEY REAL ESTATE TERMS OF HOST AND VENUE AGREEMENT (HVA) COMPARED TO
PROPOSED DISPOSITION AND DEVELOPMENT AGREEMENT (DDA)
between
CITY & COUNTY OF SAN FRANCISCO, THROUGH THE PORT COMMISSION (Port)
&
AMERICA'S CUP EVENT AUTHORITY, LLC (ACEA)
for
34TH AMERICA'S CUP EVENTS IN SAN FRANCISCO**

America's Cup World Series, August 11 - August 19 & August 27 - September 2, 2012
Louis Vuitton Challenger Series, July 4 - September 1, 2013
America's Cup Match (Match) September 7 - September 22, 2013
Most Venue Leases expire 6 months after the Match

HVA as of 12/14/10	HVA AS OF 12/31/10	PROPOSED DDA
Long-Term (LT) Venues: <ul style="list-style-type: none"> Piers 26, 28 & 30-32; SWL 330 	Long-Term (LT) Venues: Same	Long-Term (LT) Venues: Same
Short-Term (ST) Venues: <ul style="list-style-type: none"> Piers 29, 27, 19-23, 80 Brannan Street Wharf Water areas: Piers 14-22½, Piers 32-38 	Short-Term (ST) Venues: Same	Short-Term (ST) Venues: Added Pier 29½ Water areas changed to: <ul style="list-style-type: none"> Pier 9, Pier 14N+S, Pier 32-edge of Pier 38 water area (Brannan Street OWB)
Successive Defense Option: ACEA option to extend use of Venues if: <ul style="list-style-type: none"> Successful defense at Match No HVA Breach New host agreement negotiated 	Successive Defense Option: Same	Successive Defense Option: Added: <ul style="list-style-type: none"> ACEA to provide notice of interest Good faith negotiations for 6 months Mutual right to terminate if new HVA is not ready for Board approval in 6 months

HVA as of 12/14/10	HVA AS OF 12/31/10	PROPOSED DDA
<p>Authority Infrastructure Work (AIW):</p> <ul style="list-style-type: none"> Repairs to Piers 30-32 required by Law Other work required for Event Demo Pier 27 & other prep for cruise terminal (CT) project Up to \$2M of costs to relocate shoreside power at Pier 27 Additional repairs to prepare waterfront for the Event with City's prior approval (excluding spectator vessel dredging) 	<p>Authority Infrastructure Work (AIW):</p> <p>Clarified:</p> <ul style="list-style-type: none"> Dredging to accommodate regattas is work required for Event <p>Added:</p> <ul style="list-style-type: none"> Requirement to complete \$55M in AIW Pre-Match for guaranteed right to Legacy Lease of Piers 30-32 and fee transfer of SWL 330 	<p>Authority Infrastructure Work (AIW):</p> <p>Revised:</p> <ul style="list-style-type: none"> Trust lifted from SWL 330 by AB 418 Pier 27 work reduced to accommodate CT project <p>Clarified:</p> <ul style="list-style-type: none"> Regulatory Conditions of Approval (eg BCDC reqs.) is work required for Event MMRP measures assigned to ACEA is work required for Event
<p>Deferred AIW:</p> <ul style="list-style-type: none"> Piers 30-32 AIW not required by code for Event Election to defer up to 5 years after Venue Leases expire 	<p>Deferred AIW:</p> <p>Same</p>	<p>Deferred AIW:</p> <ul style="list-style-type: none"> Deferral extended to 10 years
<p>Additional Work (AW):</p> <ul style="list-style-type: none"> Repairs to Piers 26 & 28 for Legacy Option Leases \$25M Port estimate of total repairs assumes no seismic upgrade 	<p>Additional Work (AW):</p> <p>Added:</p> <ul style="list-style-type: none"> Election to defer to start of leases, up to 10 years 	<p>Additional Work (AW):</p> <p>Clarified:</p> <ul style="list-style-type: none"> AW may include proposed seismic work if justified by proposed uses likely to receive approval of Port Commission, with State Lands concurrence on trust consistency
<p>Dredging for Spectator Vessels (Dredging):</p> <p>Water areas:</p> <ul style="list-style-type: none"> Between Piers 14-22½ Brannan Street OWB 	<p>Dredging for Spectator Vessels (Dredging):</p> <p>Added:</p> <ul style="list-style-type: none"> Other areas w/Port consent 	<p>Dredging for Spectator Vessels (Dredging):</p> <p>Water areas changed to:</p> <ul style="list-style-type: none"> Pier 9 Pier 14N+S Brannan Street OWB Other areas w/Port consent

HVA as of 12/14/10	HVA AS OF 12/31/10	PROPOSED DDA
<p>Development Rights for AIW: Port reimbursement obligation includes:</p> <ul style="list-style-type: none"> • Unconditional obligation to remove trust from and convey SWL 330 or if not removed, 75-yr Legacy Lease • 66-yr Legacy Lease of Piers 30-32 • Other rights thru balancing • SWL 330 transfer agreement, Legacy Lease(s), Legacy Option Lease & term sheets subject to Board approval <p>Port has Legacy Value:</p> <ul style="list-style-type: none"> • FMV of development rights granted • IFD or other financing from Piers 26, 28, 30-32, SWL 330 • Value of HTC's • Amount of any City "buy-out" <p>ACEA receives Investment Value:</p> <ul style="list-style-type: none"> • Sum of AIW + AW based on 60% plans • Rent Credits in the amount by which Investment Value exceeds Legacy Value • Rent Credits increase by imputed rate of return of 11% per year from date of expenditure 	<p>Development Rights for AIW: Port reimbursement obligation unchanged</p> <p>ACEA receives for \$55MM pre-Match AIW (including pre-Match work on Piers 26 & 28):</p> <ul style="list-style-type: none"> • Legacy Lease of Piers 30-32 • Fee transfer of SWL 330 <p>Investment Value revised to:</p> <ul style="list-style-type: none"> • AIW above \$55M <p>For Investment Value ACEA receives:</p> <ul style="list-style-type: none"> • IFD proceeds from same sites • Balancing Rent Credits • Rent Credits increase by 11% annual rate of return, applied at beginning of each lease year • Transfer fees at SWL 330 removed • Participation in 2nd and subsequent lease assignments removed 	<p>Development Rights for AIW: Port reimbursement obligation unchanged</p> <ul style="list-style-type: none"> • \$55M AIW presumed based on Approved Scope, and will be included in Pre-Match AIW if completed by 10 years after Match

HVA as of 12/14/10	HVA AS OF 12/31/10	PROPOSED DDA
<p>Development Rights for AIW (cont'd): ACEA may apply Rent Credits to:</p> <ul style="list-style-type: none"> • FMV of Seawall Lot 330 • Legacy Lease(s) • Legacy Option Leases • Marina leases <p>If Investment Value/Rent Credits remain, either party may make proposal for long term development rights to "balance" – no limitation on Port sites available under balancing v</p>	<p>Development Rights for AIW (cont'd): ACEA may apply Rent Credits to:</p> <ul style="list-style-type: none"> • Legacy Option Leases • Marina leases • Pier 29 • Other Short Term Venues acceptable to the City in its sole discretion 	<p>Development Rights for AIW (cont'd): Investment Value reimbursed exclusively from the following sources, in order of priority:</p> <ul style="list-style-type: none"> • IFD from Piers 30-32, SWL 330 • Piers 26 & 28: interim leases at parameter rent • Pier 29: interim lease at parameter rent • Pier 29: 66-yr lease, rent begins @ \$6/sf escalated • Up to 50% of rent from subsequent lease at Piers 30-32 <p>Limited recovery after no-fault termination (e.g., casualty) from following:</p> <ul style="list-style-type: none"> • Insurance proceeds, including FEMA • Piers 30-32: interim lease for parking • Piers 30-32: 66-yr lease, rent begins @ \$4/sf • Portion of IFD proceeds from future development of Piers 30-32

HVA as of 12/14/10	HVA AS OF 12/31/10	PROPOSED DDA
<p>Development Rights for Piers 26 & 28 AW:</p> <ul style="list-style-type: none"> • Piers 26 & 28 AW offsets rent under Legacy Option Leases • Legacy Option Lease & term sheets subject to Board approval 	<p>Development Rights for Piers 26 & 28 AW:</p> <p>Same</p>	<p>Development Rights for Piers 26 & 28 AW:</p> <p>All post-Match work at Piers 26 & 28 will be repaid solely by:</p> <ul style="list-style-type: none"> • Piers 26 & 28: Legacy Option Leases, rent begins at \$6/psf (indexed after 5 years), adjusted to FMR at later of date that credits are used or 30 yrs • IFD from Piers 26 & 28 • Historic tax credit proceeds • Marina Leases at ACEA's election • Up to 50% of rent from subsequent leases at Piers 26 & 28 for up to 15 years • The Port may substitute the rent participation with a source for financing historic rehabilitation with an equal NPV
<p>Development Rights for Dredging:</p> <p>Marina sites:</p> <ul style="list-style-type: none"> • Between Piers 14-22½ • Brannan Street OWB <p>Marina Leases:</p> <ul style="list-style-type: none"> • Commercially reasonable Marina Lease terms negotiated thru ENAs • Rent Credits for Dredging to offset rent under Marina Leases 	<p>Development Rights for Dredging:</p> <p>Same</p>	<p>Development Rights for Dredging:</p> <p>Marina Lease sites changed to:</p> <ul style="list-style-type: none"> • Pier 54 • Brannan Street OWB or other site acceptable to parties • Commercially reasonable terms comparable to other West Coast marinas <p>Marina Rent Credit conditions:</p> <ul style="list-style-type: none"> • ENAs within 5 yrs after Match • Regulatory Approvals w/ 10 yrs. • Close escrow on Marina Leases <p>Add'l Pier 54 Marina Lease terms:</p> <ul style="list-style-type: none"> • 66-yr term, beginning no sooner than 5 yrs after Match • ~425 recreational vessels • Rent credits for Pier 54 substructure repairs limited to Pier 54

HVA as of 12/14/10	HVA AS OF 12/31/10	PROPOSED DDA
<p>Port Sources & Financing:</p> <ul style="list-style-type: none"> IFDs at Piers 26, 28, 30-32, SWL 330 Rent Credits for unreimbursed Investment Value Port buy-out election for AIW above \$55M, payable within 5 years, plus 11% interest <p>Additional benefit to Port:</p> <ul style="list-style-type: none"> BSW maintenance CFD over Piers 30-32, SWL 330 <p>Dispute Resolution:</p> <ul style="list-style-type: none"> HVA disputes referred first to JAMS for mediation Fees awarded only for failure to participate in mediation If not resolved, referred to ICC Int'l Court of Arbitration No attorneys' fees clause 	<p>Port Sources & Financing:</p> <p>Same</p> <p>Dispute Resolution:</p> <p>Same</p>	<p>Port Sources & Financing:</p> <p>Added:</p> <ul style="list-style-type: none"> Port right to form CFD that includes Piers 30-32 if needed to finance facilities to protect against sea level rise Expanded buy-out election to all reimbursable work above \$55M <p>Dispute Resolution for DDA:</p> <ul style="list-style-type: none"> Limited right to arbitration of disputes No right to damages in arbitration No right to de novo review Attorneys' fees only for failure to participate or frivolous action <p><u>Arbitrable Issues (Partial List)</u></p> <ul style="list-style-type: none"> The Port's ability to meet the Pier 27 delivery date Whether the Port wrongfully disapproved request to approve or amend a scope Whether a replacement venue for a damaged venue is functionally equivalent Repair estimates after casualty Whether the Port wrongfully disapproved a construction drawing submittal Whether ACEA costs are w/ an approved scope or commercially unreasonable

OFFICE OF THE MAYOR
SAN FRANCISCO



EDWIN M. LEE
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: *em* Mayor Edwin M. Lee *EL*
RE: Approving the 34th America's Cup project and related transactions
DATE: February 7, 2012

Attached for introduction to the Board of Supervisors is the resolution adopting California Environmental Quality Act Findings, a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program (MMRP) for the 34th America's Cup events and approving the America's Cup project; waiving certain termination rights by the City under the 34th America's Cup Host and Venue Agreement (Host Agreement); approving the Development and Disposition Agreement between the City, through its Port Commission, and the America's Cup Event Authority LLC (Event Authority), which also amends the Host Agreement; approving a Memorandum of Agreement regarding the City's and the Event Authority's respective obligations for certain mitigation measures in the MMRP and other project-related activities; and authorizing further actions and ratifying prior actions consistent with the terms of this Resolution.

I request that this item be calendared in Budget and Finance Committee on February 15, 2012.

Should you have any questions, please contact Jason Elliott (415) 554-5105.

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

FEB - 7 PM 4:40

RE

120127

FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL
(S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors
Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: America's Cup Event Authority LLC	
Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.	
<ol style="list-style-type: none"> 1. Board of Directors: Richard Worth, Stephen Barclay, Russell Coutts and Jay Cross 2. CEO: Richard Worth; CFO: Scott Smith; COO: N/A 3. Oracle Racing, Inc. 4. N/A 5. N/A 	
Contractor address: 160 Pacific Ave Suite 201, San Francisco, CA 94111	
Date that contract was approved: <i>(By the SF Board of Supervisors) January 31, 2012</i>	Amount of contract: Over \$55 million in pre-Match improvements
Describe the nature of the contract that was approved: Development and Disposition Agreement for certain infrastructure improvements relating to the 34 th America's Cup events; also further long-term development rights as described therein.	
Comments: Total value of contract depends on actual cost/value of improvements, as further described in the agreement.	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves: San Francisco Board of Supervisors
Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed

Ben Rosenfield
ControllerMonique Zmuda
Deputy Controller**MEMORANDUM**

TO: David Chiu, President, Board of Supervisors

FROM: Ben Rosenfield, Controller 

DATE: February 6, 2012

SUBJECT: Evaluation of America's Cup Organizing Committee Fundraising
Reference #20120124-001

This memo is in response to your request that the Controller's Office conduct an independent evaluation of the America's Cup Organizing Committee's (ACOC) obligation under the Host and Venue Agreement (Host Agreement) to raise \$12 million by the completion of the Environmental Impact Report (EIR) for venue sites.

Findings

- As of the date of this memo, the ACOC has not paid the City any portion of the \$12 million in revenue that is assumed in the City's fiscal year (FY) 2011-12 budget.
- The Controller's Office can confirm written pledges, letters, or agreements totaling \$12 million, payable to the ACOC over the coming three years.
 - Approximately \$4 million of this amount is payable through various signed pledges with 21 individual and foundation donors.
 - \$8 million of this amount is payable during the current fiscal year as part of a larger revenue sharing agreement between the ACOC and the America's Cup Event Authority.
- Given the ACOC's expenses and fundraising payout schedules, significant additional fundraising beyond those achieved to date will be required to honor the \$32 million fundraising goals outlined in the Host Agreement over the coming three years.

Background

Under the Host Agreement for the 34th America's Cup, the ACOC agreed to fundraise \$32 million from private sources over three years to reimburse a portion of the City and County of San Francisco's costs associated with the event, including police, transit, and other associated expenses. This \$32 million fundraising requirement is in addition to the \$32 million bond that the Host

Agreement requires the ACOC to provide. Part 2.2(h) of the Host Agreement states the City may terminate this agreement if the ACOC fails to meet its year one fundraising target of \$12 million by the timetable provided in Section 9.4.

Section 9.4 of the agreement states that the ACOC "will endeavor to meet its year one fundraising target... no later than seven working days after completion of the environmental review pursuant to CEQA." The Planning Commission certified the final EIR on December 15, 2011, which was then appealed to the Board of Supervisors. The Board of Supervisors rejected the appeals and affirmed the certification of the final environmental impact report on January 24, 2012. The ACOC deadline for meeting its fundraising target was therefore January 31, 2012. There is no stated deadline in the Host Agreement for payment of the \$12 million by the ACOC to the City.

Methodology

Financial and performance staff from the Controller's Office and Port Commission visited the America's Cup Organizing Committee (ACOC) office on January 31, 2012 and reviewed the following:

- In-house report related to pledges made to the ACOC and the amounts received;
- Documents evidencing pledges, the amounts of pledge payments and the timing of the pledge payments;
- Documentation verifying pledge payments received;
- In-house reports on organizational costs, including costs incurred to-date;
- In-house projections of organizational cash-flow through January 2014;
- In-house report on financial obligations through January 2014; and
- Projected amounts to-be-raised through fundraising efforts over the next nine months.

Additional documents were reviewed subsequent to the onsite inspection and prior to the issuance of this memo.

Summary of Findings

Identified sources of funding include \$800,000 cash that the ACOC received in calendar year 2011, donor correspondence pledging approximately \$1.3 million in both calendar years 2012 and 2013 followed by \$600,000 in 2014. Of this \$4 million total, \$450,000 was stated to be restricted by the funders. A portion of the 21 written pledges come from well-known Bay Area foundations and philanthropists that have a long track record of delivering their pledges for favored cultural and civic institutions.

The ACOC has received one additional written pledge, totaling \$8 million payable during the current fiscal year. This written pledge is an advance of future payments owed to the ACOC as part of a revenue sharing agreement between the ACOC and the Event Authority.

Given reported and projected ACOC expenditures and pledges received to date, it would appear that the ACOC will be financially positioned to make a payment of approximately \$8 million to the City during the current fiscal year absent additional fundraising.

**Controller's Office Summary:
Status of ACOC Fundraising and Expenses**

Calendar Year	2011	2012	2013	2014	Total
Payments & Pledges					
Payments received	\$827,088				\$827,088
Written pledges		\$1,300,000	\$1,275,000	\$600,000	\$3,175,000
Revenue sharing agreement		\$8,000,000			\$8,000,000 (1)
	\$827,088	\$9,300,000	\$1,275,000	\$600,000	\$12,002,088 (2)
Planned ACOC Expenses					
Operating costs	\$492,000	\$844,000	\$900,000	\$50,000	\$2,286,000
Other costs	\$492,000	\$520,000	\$1,220,000	\$50,000	\$1,740,000
	\$492,000	\$1,364,000	\$2,120,000	\$50,000	\$4,026,000 (3)
Annual Surplus / (Deficit)	\$335,088	\$7,936,000	(\$845,000)	\$550,000	\$7,976,088 (4)

(1) Does not include potential future ACOC revenues from revenue sharing agreement with the Event Authority

(2) Does not include donations currently planned or under cultivation by the ACOC

(3) Does not include the expense associated with a possible bond slated for either 2012 or 2013

(4) Prior to committed \$32 million payments to the City

SCHEDULE 1

Venue Schedule

34TH AMERICA'S CUP EVENTS IN SAN FRANCISCO

America's Cup World Series, August 11 - August 19 & August 27 - September 2, 2012
 Louis Vuitton Challenger Series, July 4 - September 1, 2013
 America's Cup Match September 7 - September 22, 2013

Long-Term Venues – Authority may retain exclusive use up to 6 months after Match

VENUE	DDA CONTRACTS	RELEVANT DATES & ASSUMPTIONS ¹
Piers 30-32	<ul style="list-style-type: none"> • Venue Lease • Legacy Lease 	<ul style="list-style-type: none"> • March 1, 2012: Delivery • March 21, 2014: Venue Lease ends • March 19, 2024: Complete deferred work • March 19, 2024: Interim use period ends • March 20, 2024: Legacy Lease begins • March 19, 2090: Legacy Lease ends
SWL 330	<ul style="list-style-type: none"> • Transfer Agreement subject to AB 418 	<ul style="list-style-type: none"> • September 30, 2012: Must close sale or reappraise • December 31, 2012: Delivery if not transferred • December 31, 2013: Must hold Match or rescind transfer
Pier 26 & Pier 28	<ul style="list-style-type: none"> • Venue Leases • Legacy Option Leases 	<ul style="list-style-type: none"> • June 1, 2012: Delivery • March 21, 2014: Venue Lease ends • March 19, 2024: Complete deferred work • March 19, 2024: Interim Use ends • March 20, 2024: Legacy Option Lease begins • March 19, 2090: Legacy Option Lease ends

¹ Except for Delivery dates, all dates shown are assumed.

SCHEDULE 1

Venue Schedule

Short-Term Venues – Except as noted, Authority's use may continue up to 6 months after Match, as reasonably necessary

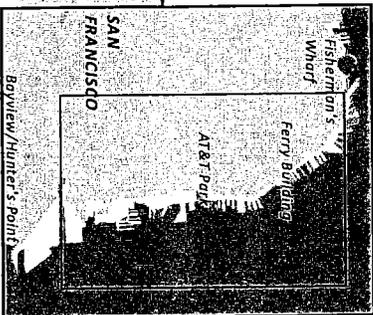
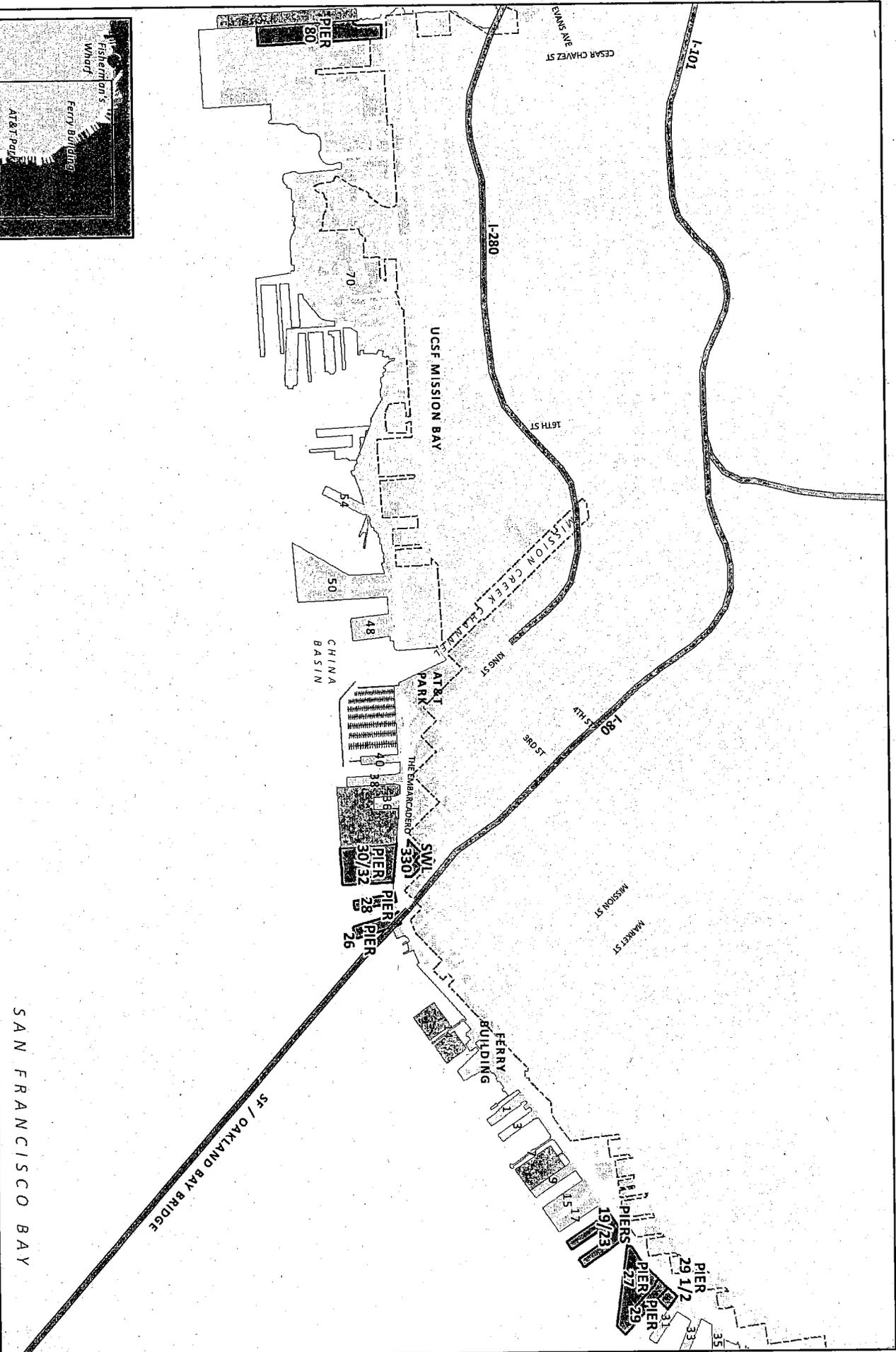
VENUE	DDA CONTRACTS	RELEVANT DATES & ASSUMPTIONS
Pier 29½	<ul style="list-style-type: none"> • Venue Lease or License • Not available for development rights 	<ul style="list-style-type: none"> • March 1, 2013: Delivery • March 21, 2014: Venue Lease ends (The cruise terminal contractor will continue to occupy the office space within the shed)
Pier 29	<ul style="list-style-type: none"> • Venue Lease • Potential long-term development site 	<ul style="list-style-type: none"> • June 1, 2012: Delivery • March 21, 2014: Venue Lease ends
Pier 27	<ul style="list-style-type: none"> • Venue License • Not available for development rights 	<ul style="list-style-type: none"> • March 1, 2013: Delivery • October 21, 2013: Exclusive use ends
Pier 27 Valley	<ul style="list-style-type: none"> • Venue License • Not available for development rights 	<ul style="list-style-type: none"> • March 1, 2013: Delivery • October 21, 2013: Exclusive use ends • Port will deliver portions (TBD) early to accommodate early retail use and set up of portions of the AC Village(to be agreed upon by the parties)
Pier 23	<ul style="list-style-type: none"> • Venue Lease • Not available for development rights 	<ul style="list-style-type: none"> • June 1, 2012: Delivery • March 21, 2014: Venue Lease ends
Pier 19½	<ul style="list-style-type: none"> • Venue Lease • Not available for development rights 	<ul style="list-style-type: none"> • June 1, 2012: Delivery • March 21, 2014: Venue Lease ends
Pier 19	<ul style="list-style-type: none"> • Venue Lease • Not available for development rights 	<ul style="list-style-type: none"> • June 1, 2012: Delivery • March 21, 2014: Venue Lease ends
Brannan Street Wharf	<ul style="list-style-type: none"> • Short-Term Venue w/Venue License • Not available for development rights 	<ul style="list-style-type: none"> • July 1, 2013: Delivery • March 21, 2014: Venue Lease ends
Pier 80	<ul style="list-style-type: none"> • Venue Lease or License • Not available for development rights 	<ul style="list-style-type: none"> • TBD • Must be returned to Port as soon as practicable when no longer needed for Event

SCHEDULE 1

Venue Schedule

Water Venues		
VENUE	DDA CONTRACTS	RELEVANT DATES & ASSUMPTIONS
Pier 9 apron + water area ²	<ul style="list-style-type: none"> • Venue License • Not available for development rights 	<ul style="list-style-type: none"> • TBD • March 20, 2014: Venue Lease ends
Pier 14N + S water basin	<ul style="list-style-type: none"> • Venue License • Not available for development rights, but dredging costs may be used for 425-berth marina lease for recreational vessels at Pier 54 	<ul style="list-style-type: none"> • TBD • March 20, 2014: Venue Lease ends
Pier 32S – N edge of Pier 38 water basin	<ul style="list-style-type: none"> • Venue License • Potential development site for marina lease 	<ul style="list-style-type: none"> • TBD • March 20, 2014: Venue Lease ends

² Subject to renegotiation or termination of existing tenancies.



Venue
 Water Venue
 Port Jurisdiction Line



ATTACHMENT - LEASE PREMISES SITE PLAN

34th America's Cup
 PORT OF SAN FRANCISCO



SCHEDULE 2

Pre-Existing Tenancies

1. Sprint Nextel: operation of a rooftop wireless communications site on Pier 23 roof
2. T-Mobile: operation of a rooftop wireless communications site on Pier 26 roof
3. Reilly, Steve and Maria (Red's Java House Restaurant): restaurant and adjacent parking and outdoor seating area at Pier 30/32

SCHEDULE 3

Port Installations

Planned installations include closed circuit community television, access control, and intrusion detection systems at the following locations:

Pier 1
Pier 9
Pier 19
Pier 22½
Pier 27
Piers 30-32
Pier 45
Piers 50-52
Pier 80
Pier 90
Ferry docks
World Trade Club (BART ventilator, Ferry Plaza)
China Basin
South Beach Harbor



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion 18514

HEARING DATE: December 15, 2011

Hearing Date: December 15, 2011
Case No.: 2010.0493E
Project Address: various
Zoning: various
Block/Lot: various
Project Sponsors: San Francisco Office of Economic and Workforce Development

1 Dr. Carlton Goodlett Place
San Francisco, CA 94102

Port of San Francisco
Pier 1
San Francisco, CA 94111

34th America's Cup Event Authority
160 Pacific Avenue
San Francisco, CA 94111

Staff Contact: Joy Navarrete – (415)-575-9040
Joy.Navarrete@sfgov.org

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

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415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR (1) A PROPOSED PROJECT INVOLVING AMERICA'S CUP SAILING RACES IN THE SUMMER / FALL OF 2012 AND 2013, INCLUDING VARIOUS WATERFRONT VENUES, AND (2) A PROPOSED PROJECT INVOLVING CONSTRUCTION OF THE JAMES R. HERMAN CRUISE TERMINAL AND NORTHEAST WHARF PLAZA AT PIERS 27-29.

MOVED, that the San Francisco Planning Commission (hereinafter "Commission") hereby CERTIFIES the Final Environmental Impact Report identified as Case No. 2010.0493E, (hereinafter "Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department") fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").
 - A. The Department determined that an Environmental Impact Report (hereinafter "EIR") was required and provided public notice of that determination by publication in a newspaper of general circulation on February 9, 2011.

- B. On July 11, 2011, the Department published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice.
 - C. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by Department staff on July 11, 2011.
 - D. On July 11, 2011, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse.
 - E. Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on July 11, 2011.
2. The Commission held a duly advertised public hearing on said DEIR on August 11, 2011, at which opportunity for public comment was given, and public comment was received on the DEIR. The period for acceptance of written comments ended on August 25, 2011.
 3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 45-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Draft Comments and Responses document, published on December 1, 2011, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.
 4. A Final Environmental Impact Report (hereinafter "FEIR") has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses document all as required by law.
 5. Project EIR files have been made available for review by the Commission and the public. These files are available for public review at the Department at 1650 Mission Street, Suite 400, and are part of the record before the Commission.
 6. On December 15, 2011, the Commission reviewed and considered the FEIR and hereby does find that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
 7. The Planning Commission hereby does find that the FEIR concerning File No. 2010.0493E, the 34th America's Cup & James R Herman Cruise Terminal & Northeast Wharf Plaza reflects the independent judgment and analysis of the City and County of San Francisco, is

adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA and the CEQA Guidelines.

8. The Commission, in certifying the completion of said FEIR, hereby does find that the 34th America's Cup project described in the EIR:

A. Will have a significant project-specific effect on the environment by:

- a. reducing levels of service at 18 signalized and unsignalized intersections;
- b. impacting other signalized and unsignalized intersections;
- c. resulting in a significant impact on traffic operations;
- d. exceeding available transit capacity of Muni lines, PresidiGo shuttle service, AC Transit lines, BART lines, WETA lines, Golden Gate Transit bus and ferry lines, Blue & Gold ferry lines, Caltrain service, and SamTrans lines;
- e. impacting transit operations related to additional congestion resulting from the project;
- f. disrupting regular scheduled ferry operations;
- g. resulting in potentially significant impacts to the transportation network in combination with other special events occurring simultaneously in San Francisco;
- h. resulting in exposure of persons to or generation of noise levels in excess of standards established in the *San Francisco General Plan* or San Francisco Noise Ordinance;
- i. resulting in a temporary and periodic increase in ambient noise levels in the project vicinity above levels existing without the project associated with increased traffic levels on weekends;
- j. resulting in construction emission of criteria pollutants and precursors that would violate an air quality standard or contribute substantially to an existing or projected air quality violation;
- k. resulting in exposure of sensitive receptors to substantial concentrations of toxic air contaminants or respirable particulate matter (PM2.5) associated with construction;
- l. violating an air quality standard or contribute substantially to an existing or projected air quality violation associated with operations;

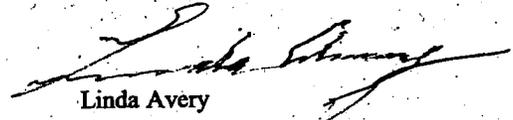
- m. exposing sensitive receptors to substantial concentrations of toxic air contaminants or respirable particulate matter (PM2.5) associated with operations.
- B. Potential long-term development as a result of the AC34 project will have a significant conceptual effect on the environment, to be further analyzed at a project-specific level when proposed, by:
- a. conflicting with BCDC policies adopted for the purpose of mitigating environmental effects;
 - b. resulting in redevelopment of existing Port properties at Piers 30-32, which could result in a significant impact to cultural resources;
 - c. resulting in significant traffic and transit impacts;
 - d. resulting in construction and operational air pollutant emissions;
- C. Will have a significant cumulative effect on the environment in that it would result in significant adverse cumulative impacts on air quality.
9. The Commission, in certifying the completion of said FEIR, hereby does find that the James R. Herman Cruise Terminal and Northeast Wharf Plaza project described in the EIR.
- A. Will have a significant project-specific effect on the environment by:
- a. contributing to existing exceedance of capacity utilization standard on the F-Market & Wharves historic streetcar line;
 - b. resulting in emission of criteria pollutants and precursors associated with construction that would violate an air quality standard or contribute substantially to an existing or projected air quality violation
- B. Will have a significant cumulative effect on the environment in that it would:
- a. result in significant project and cumulative impacts at the intersections of The Embarcadero/ Broadway, The Embarcadero/ Washington, The Embarcadero/ Mission, The Embarcadero/ Howard;
 - b. result in significant project and cumulative impacts on the F-Market & Wharves historic streetcar;
 - c. result in significant and unavoidable adverse cumulative noise impacts;
 - d. result in significant adverse cumulative impacts on air quality

Motion No. 18514.
Hearing Date: December 15, 2011

CASE NO. 2010.0493E

11. The Planning Commission reviewed and considered the information contained in the FEIR.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of December 15, 2011.



Linda Avery
Commission Secretary

AYES: 5
NOES: 0
ABSENT: Fong & Sugaya were recused
ADOPTED: December 15, 2011

FILE NO. 111359

1 [Affirming certification of The 34th America's Cup & James R. Herman Cruise Terminal and
2 Northeast Wharf Plaza Projects FEIR]

3 **Motion affirming the certification by the Planning Commission of the Final**
4 **Environmental Impact Report for the 34th America's Cup & James R. Herman Cruise**
5 **Terminal and Northeast Wharf Plaza Projects.**

6
7 WHEREAS, The proposed Projects include the 34th America's Cup Project (AC34 or
8 AC34 Project) and the James R. Herman Cruise Terminal/Northeast Wharf Plaza Project
9 (Cruise Terminal Project)—two related but independent projects with overlapping locations
10 and construction activities and interrelated operational schedules; and

11 WHEREAS, The proposed AC34 Project is a series of international sailing races and
12 related events to be hosted by the City in summer/fall 2012 and in summer/fall 2013 and held
13 in central San Francisco Bay. The proposed AC34 Project includes construction of both
14 temporary and permanent facilities at a number of project sites to accommodate all aspects of
15 AC34 facilities and services supporting the events, including team bases and operations,
16 support space, media operations, hospitality services, sponsored commercial space, and
17 entertainment and spectator areas. Temporary and permanent improvements (including
18 seismic upgrades, fire, safety, and access improvements; roof, deck, and wall repairs; and
19 dredging) would be constructed at sites managed by the Port of San Francisco (including Pier
20 29½, Piers 27-29, Pier 23, Pier 19½, Pier 19, Pier 9, Pier 26, Pier 28, Piers 30-32, and Pier
21 80; water basins/water areas at Piers 29 31 water area, Northeast Wharf Open Water Basin
22 between Piers 19 and 27, Pier 9 water area, portion of Rincon Point Open Water Basin south
23 of Pier 14 and water area north of Pier 14, Piers 26-28 water area, Piers 28-30 water area,
24 and the Brannan Street Wharf Open Water Basin from Pier 32 to Pier 36; and Seawall Lot
25 330), as well as at venues under the jurisdiction of other city, state, or federal agencies,

1 including Crissy Field, Crissy Field East/Marina Green West, Marina Green, Fort Mason,
2 Aquatic Park, Alcatraz Island, Fort Baker Pier at Cavallo Point (near Sausalito in Marin
3 County), San Francisco Civic Center, Union Square, and Justin Herman Plaza. A proposed
4 America's Cup Village would be located at Marina Green in 2012 and at Piers 27-29 in 2013.
5 A helipad located on the southeast corner of Treasure Island would be used to serve as a
6 temporary staging location for broadcasting and media operations. Under the proposed
7 Project, most existing tenants currently leasing and occupying Port facilities to be used for
8 AC34 venues would be displaced prior to the AC34 2012 event. The proposed Project
9 includes the development of a number of event-related implementation plans addressing
10 transportation management, waste management, parks event operations, sustainability,
11 environmental and safety requirements, water and air traffic management, public safety, youth
12 involvement and workforce development. The proposed AC34 Project includes temporary
13 public access improvements along The Embarcadero Promenade and at the Pier 43
14 Promenade, as well as permanent public access improvements at Pier 19, Pier 23, and in the
15 open space at the intersection of Third Street and Cargo Way in the southern waterfront. The
16 proposed Project includes a request to amend the San Francisco Bay Conservation and
17 Development Commission San Francisco Waterfront Special Area Plan ("SAP") to permit
18 temporary berthing at Brannan Street Wharf, Rincon Point, Broadway, and Northeast Wharf
19 Open Water Basins during the AC34 events. The SAP amendments would also include a
20 determination of public benefits that could trigger fill removal at a number of sites along the
21 Port's waterfront properties. The Project also includes certain conditional long-term
22 development rights at selected Port facilities, including potential development of permanent
23 marinas, which development rights were analyzed at a general level with the expectation that
24 additional environmental review would be conducted when one or more specific proposals for
25 development on the individual sites are submitted to the City; and

1 WHEREAS, The Cruise Terminal Project proposes to develop a new passenger cruise
2 terminal at Piers 27-29 designed to meet modern ship and operational requirements of the
3 cruise industry, consisting of two stories approximately 91,200 square feet in size; occupying
4 a footprint of approximately 46,100 square feet; and containing a large baggage claim area,
5 check-in and waiting/seating areas, Customs and Border Protection and other security offices,
6 processing and screening facilities, storage, utilities, and other facilities. Under the proposed
7 Project, the Port would demolish the existing Pier 27 shed and construct a new facility which
8 would become the primary cruise terminal; Pier 35 would be retained as a secondary terminal.
9 An approximately 3-acre ground transportation area would provide space for access, dropoff,
10 and exiting by trucks, taxis, buses, and passenger vehicles. As part of the proposed Project,
11 the Port also proposes to construct the Northeast Wharf Plaza—an approximately 2½-acre
12 public open space along the west end of Pier 27 designed for passive recreation and
13 integrating the historic Pier 29 Belt Line office building and proposed landscaping and
14 restroom facilities. The proposed Project also includes an application for an amendment to the
15 SAP to build the proposed James R. Herman Cruise Terminal and the Northeast Wharf Plaza
16 and to allow berthing of cruise vessels in the Northeast Wharf Open Water Basin; and

17 WHEREAS, Construction of the two Projects would be carried out in two phases:
18 construction of Phase 1 would be timed to accommodate the AC34 Project, and would include
19 demolition of the existing Pier 27 shed, a portion of the Pier 29 shed, and the Pier 27 annex
20 building and construction of the cruise terminal core building and shell to be used for the
21 AC34 events at Piers 27-29 during 2013; Phase 2 of the construction would include further
22 construction and improvements to complete the Cruise Terminal Project, including completion
23 of certain interior space and facilities within the cruise terminal building, installation of exterior
24 maritime equipment, finishing of the ground transportation area, and construction of the
25 Northeast Wharf Plaza; and

1 WHEREAS, The Planning Department determined that an environmental impact report
2 was required for the Project and prepared a Notice of Preparation ("NOP") of an
3 Environmental Impact Report and an Initial Study on February 9, 2011, analyzing the potential
4 environmental impacts of the proposed project. The NOP/Initial Study was circulated for 30
5 days for public comment and review; and

6 WHEREAS, On July 11, 2011, the Department published the Draft Environmental
7 Impact Report ("DEIR") for the Project (Planning Department Case No. 2010.0493E); and

8 WHEREAS, The Planning Commission held a duly advertised public hearing on the
9 DEIR, on August 11, 2011, at which time opportunity for public comment was provided on the
10 DEIR, and written comments were received through August 25, 2011; and

11 WHEREAS, The Department prepared responses to comments received at the public
12 hearing on the DEIR and submitted in writing to the Department, prepared revisions to the text
13 of the DEIR and published a Comments and Responses Document; and

14 WHEREAS, A Final Environmental Impact Report ("FEIR") for the Project was
15 prepared by the Department, consisting of the DEIR, any consultations and comments
16 received during the review process, any additional information that became available and the
17 Comments and Responses document, all as required by law; and

18 WHEREAS, On December 15, 2011, the Planning Commission reviewed and
19 considered the FEIR and, by Motion No. 18514 found that the contents of said report and the
20 procedures through which the FEIR was prepared, publicized and reviewed complied with the
21 provisions of the California Environmental Quality Act (CEQA), the State CEQA Guidelines
22 and Chapter 31 of the San Francisco Administrative Code; and

23 WHEREAS, By Motion No. 18514 the Commission found the FEIR to be adequate,
24 accurate and objective, reflected the independent judgment and analysis of the Department
25 and the Commission and that the Comments and Responses document contained no

1 significant revisions to the DEIR, adopted findings relating to significant impacts associated
2 with the Project and certified the completion of the FEIR in compliance with CEQA and the
3 State CEQA Guidelines; and

4 WHEREAS, On December 16, the San Francisco Port Commission adopted CEQA
5 Approval Findings, including a statement of overriding considerations and a Mitigation
6 Monitoring and Reporting Program, and approved the Project; and

7 WHEREAS, By letter to the Clerk of the Board of Supervisors dated December 16,
8 2011, Keith G. Wagner of Lippe Gaffney Wagner LLP, on behalf of San Francisco Tomorrow,
9 Golden Gate Audubon Society, Waterfront Watch, and Telegraph Hill Dwellers, filed an
10 appeal of the FEIR to the Board of Supervisors, which the Clerk of the Board of Supervisors
11 received on or around December 19, 2011; and

12 WHEREAS, By letter to the Clerk of the Board of Supervisors dated January 4, 2012,
13 Rebecca Evans, on behalf of the Sierra Club, San Francisco Group, filed an appeal of the
14 FEIR to the Board of Supervisors, which the Clerk of the Board of Supervisors received on or
15 around January 4, 2012; and

16 WHEREAS, Chapter 31 of the Administrative Code requires the Board of Supervisors
17 to consolidate multiple appeals of the same project or projects and to hold one hearing on all
18 appeals received; and

19 WHEREAS, On January 24, 2011, this Board held a duly noticed public hearing to
20 consider the appeal of the FEIR certification filed by all Appellants; and

21 WHEREAS, This Board has reviewed and considered the FEIR, the appeal letters,
22 subsequent written correspondence, the responses to concerns documents that the Planning
23 Department prepared, all other written records before the Board of Supervisors, and heard
24 testimony and received public comment regarding the adequacy of the FEIR; and

1 WHEREAS, The FEIR files and all correspondence and other documents have been
2 made available for review by this Board and the public. These files are available for public
3 review by appointment at the Planning Department offices at 1650 Mission Street, and are
4 part of the record before this Board by reference in this motion; now, therefore, be it

5 MOVED, That this Board of Supervisors hereby affirms the decision of the Planning
6 Commission in its Motion No. 18514 to certify the FEIR and finds the FEIR to be complete,
7 adequate and objective and reflecting the independent judgment of the City and in compliance
8 with CEQA and the State CEQA Guidelines; and be it further

9 MOVED, That this Board of Supervisors expects that further environmental review,
10 which may include one or more EIRs, will be prepared for the specific long-term development
11 proposals that the America's Cup Event Authority or its assignee(s) may submit to the City as
12 contemplated in the 34th America's Cup Host and Venue Agreement, and that such
13 environmental review will analyze the specific characteristics of the development proposal(s)
14 and take into account the specific characteristics of the proposal(s) and the surrounding
15 circumstances at the time the individual development proposals are submitted to the City for
16 review.



City and County of San Francisco

Tails

Motion: M12-011

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 111359

Date Passed: January 24, 2012

Motion affirming the certification by the Planning Commission of the Final Environmental Impact Report for the 34th America's Cup Project and James R. Herman Cruise Terminal and Northeast Wharf Plaza at Piers 27-29.

January 10, 2012 Board of Supervisors - CONTINUED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Olague and Wiener

January 24, 2012 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 10 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar and Wiener

Excused: 1 - Olague

January 24, 2012 Board of Supervisors - APPROVED AS AMENDED

Ayes: 10 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar and Wiener

Excused: 1 - Olague

File No. 111359

I hereby certify that the foregoing Motion was APPROVED AS AMENDED on 1/24/2012 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 11-80

- WHEREAS, Charter Section B3.581 empowers the Port Commission with the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within the Port jurisdiction; and
- WHEREAS, The Port of San Francisco ("Port") Waterfront Land Use Plan, including the Design and Access Element (collectively, the "Waterfront Plan") is the Port's adopted land use document for property within Port jurisdiction, which provides the policy foundation for waterfront development and improvement projects; and
- WHEREAS, After a multi-year cooperative process, the Port Commission and the San Francisco Bay Conservation and Development Commission ("BCDC") adopted amendments to BCDC's San Francisco Bay Plan and BCDC's San Francisco Waterfront Special Area Plan ("Special Area Plan") in August 2000, which allowed for the redevelopment of certain piers for uses consistent with the public trust; and
- WHEREAS, In 2001, through AB 1389, the State Legislature ratified the Special Area Plan as necessary to the health, safety and welfare of the public in the entire Bay Area, and declared that the Special Area Plan should provide for, among other things, a historic preservation mechanism to ensure preservation of important historic resources on the piers, and the ability of the Port to repair, improve, or use the piers not designated for removal between Pier 35 and China Basin for any purpose consistent with the Burton Act, the public trust and the Special Area Plan; and
- WHEREAS, The Special Area Plan contains policies to allow for the repair and rehabilitation of existing piers, pier sheds, bulkheads and connector buildings that are listed on the National Register or listed as a California Historic Landmark, consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties ("Secretary's Standards"); and
- WHEREAS, In February 2010, BMW Oracle Racing, sailing for the Golden Gate Yacht Club ("GGYC" and together, the "Team"), won the 33rd America's Cup in Valencia, Spain; and
- WHEREAS, The Team, as Defender of the America's Cup, has the right and duty to organize the 34th America's Cup and related activities (the "Event"), and has created the America's Cup Event Authority, LLC (the "Event Authority") for purposes of organizing the Event ("AC34" or the "Event"); and

- WHEREAS, On October 5, 2010, by Resolution 465-10 (File No. 101254), the Board of Supervisors endorsed a Term Sheet that outlined the basis for the City, the America's Cup Organizing Committee (the "ACOC"), and the Event Authority to negotiate a Host City and Venue Agreement for the 34th America's Cup; and
- WHEREAS, On December 14, 2010, by Resolution 585-10 (File No. 101259), the Board of Supervisors endorsed a Host and Venue Agreement (the "HVA") as the basis for the City, the ACOC, and the Event Authority to negotiate and develop terms for hosting the 34th America's Cup; and
- WHEREAS, GGYC selected San Francisco as the host city for AC34 on December 31, 2010; and
- WHEREAS, Under the 34th America's Cup Host and Venue Agreement ("HVA"), among the Authority, the City and the ACOC, certain of the America's Cup World Series pre-regattas, the America's Cup Challenger Series, the America's Cup Defender Series (if held), and the America's Cup Match were proposed to be held in San Francisco Bay; and
- WHEREAS, Under the HVA, the City would provide Port land and water areas to the Authority for AC34-related uses (each, a "Venue") rent-free under leases (each, a "Venue Lease") and licenses (each, a "Venue License"), the Authority agreed to make certain capital improvements to improve the Venues and other Port property with the Port's approval, and the Port would reimburse the Authority for its costs through a combination of public sources described in this Agreement; and
- WHEREAS, The disposition and development agreement for the Venues ("DDA") sets forth the usage of Port property for the Event, and governs long-term development rights on Port property, and replaces Sections 5, 6 and 7 of the HVA; and
- WHEREAS, All of the Venues except Seawall Lot 330 are subject to the common law public trust for commerce, navigation, and fisheries and the statutory trust imposed by the Burton Act, Chapter 1333 of the Statutes of 1968, as amended, by which the State of California conveyed to the City, in trust and subject to certain terms, conditions and reservations, the State's interest in certain tidelands (collectively, the "Public Trust"); and
- WHEREAS, City and Port staff and consultants have conducted substantial economic analysis of the impacts and benefits on the Port and region; and
- WHEREAS, On March 22, 2011, by Board of Supervisors Resolution No. 134-11 (File No. 10-1564), the Board of Supervisors approved a Memorandum of Understanding (MOU) between the Port and the City Controller that

provides mechanisms by which the City will reimburse the Port for lost rent revenues and other Event-related costs; and

WHEREAS, The long-term leases and the disposition and development agreements for long-term development contemplated in the DDA will be subject to later discretionary approvals by the Port Commission and the Board of Supervisors, following completion of environmental review of the proposed development under the California Environmental Quality Act ("CEQA"); and

WHEREAS, Under Section 2 of the HVA, the HVA will terminate without liability to any party (except for the City's indemnification obligations) if the parties otherwise are unable to reach agreement on specified contingencies, including if environmental review under CEQA would require unacceptable modifications to the Event or other terms of the HVA; and

WHEREAS, The Event presents a rare opportunity to bring a new 21st century maritime use to the San Francisco waterfront; and

WHEREAS, Hosting the 34th America's Cup Event in San Francisco would generate significant public benefits for the Port and the City, including: (i) the repair, improvement and productive reuse of certain Port piers along the waterfront that are currently in a state of disrepair; (ii) the generation of significant new jobs and economic development in a very short period of time, as documented by various economic analyses; and (iii) an extraordinary maritime event that substantially increases public access to the waterfront, new opportunities for people to view and enjoy the San Francisco Bay and which showcases the Bay to the world; and

WHEREAS, The Port and the Authority are committed to improvements that would meet the Secretary's Standards and, long-term development, if approved, that would meet Secretary's Standards if applicable and therefore, be eligible for historic preservation tax credits, consistent with the Waterfront Plan and San Francisco General Plan policies intended to preserve the strong architectural and historic character of this notable historic district; and

WHEREAS, The improvements to Piers 30-32 to enable the 34th America's Cup also help advance long-term improvements of a designated development opportunity site in the Waterfront Land Use Plan, which the Port has sought but has been unsuccessful in achieving economically feasible development in prior efforts with private development partners; and

WHEREAS, The Port Commission must conserve Port revenues to subsidize those maritime uses and public improvements for which private investment is not economic, and therefore the Port cannot directly fund all necessary capital improvements needed to repair historic Port facilities such as Piers 30-32; and

WHEREAS, Port staff and the Authority have negotiated the terms of the DDA and the Venue Leases set forth in the memorandum for Agenda Item 9B for the Port Commission meeting of December 16, 2011, copies of which are on file with the Commission Secretary; and

WHEREAS, The Authority is required to obtain amendments to the BCDC San Francisco Waterfront Special Area Plan and a Major Permit from BCDC for the Project, and Port, as landowner of the Site, must join the Authority as co-applicant in the filing of the applications for the Plan amendments and Major Permit from BCDC; and

WHEREAS, The BCDC Plan amendment and permit applications are subject to Port's review and approval prior to implementing the project improvements, including any conditions that may be imposed in granting BCDC approvals; and now, therefore, be it

RESOLVED, That the Port Commission finds that the Event is trust-consistent in that it is short-term and promotes public trust objectives, including maritime activities, as described in the Charter, and the Public Trust and that any long-term leases resulting in Authority long-term development rights will undergo independent analysis of their trust-consistency; and be it further

RESOLVED, That the Port Commission approves of the DDA, a copy of which is on file with the Port Commission Secretary, substantially on terms set forth in the Memorandum for Agenda Item 9B for the Port Commission meeting on December 16, 2011 as amended by the staff presentation at that meeting; and be it further

RESOLVED, That the Port Commission hereby authorizes Port staff to approve Scopes of Work discussed in the Memorandum for Agenda Item 9B for the Port Commission meeting on December 16, 2011, a copy of which is on file with the Port Commission Secretary if such cost estimates are (1) independently reviewed and (2) their summation does not exceed \$75 million; and be it further

RESOLVED, That the Port Commission authorizes and directs the Executive Director to forward the DDA to the Board of Supervisors for approval of the DDA as an amendment to Sections 5, 6 and 7 of the HVA, and upon the effectiveness of such approval, to execute the DDA, in substantially the form on file with the Port Commission Secretary, and in such final form as is approved by the Executive Director in consultation with the City Attorney, conditioned on the City's procurement of Event-related insurance coverage for the Port and the City for coverage and in amounts satisfactory to the City Risk Manager; and be it further

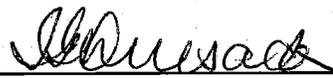
RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the DDA and (including preparation and attachment of, or changes to, any or all of the exhibits) that the Executive Director, in consultation with the City Attorney, determines are in the best interests of the City, do not materially decrease the benefits or otherwise materially increase the obligations or liabilities of the City or Port, and are necessary or advisable to complete the transactions that the DDA contemplates and effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of such additions, amendments or other modifications to the DDA, provided, however, that significant changes in the structure of the DDA or the parties obligations under the DDA shall be subject to further Port Commission consideration and final approval; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director and any other appropriate officers, agents or employees of the City to take any and all steps (including the execution and delivery of any and all certificates, agreements, notices, consents, escrow instructions, closing documents and other instruments or documents) as they or any of them deems necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions under the DDA, in accordance with this resolution, or to otherwise effectuate the purpose and intent of this resolution, such determination to be conclusively evidenced by the execution and delivery by any such person or persons of any such documents; and be it further

RESOLVED, That the Port Commission authorizes the Executive Director to represent and bind the Port by representations and information submitted as part of securing BCDC approvals of amendments to BCDC Plans and a Major Permit required to implement the 34th America's Cup; and be it further

RESOLVED, That the Port Commission approves, confirms and ratifies all prior actions taken by the officials, employees and agents of the Port Commission or the City with respect to the DDA and related documents.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of December 16, 2011.



Secretary

Attachment D: Remaining Terms of Development and Disposition Agreement

This Attachment provides a summary of the terms of the proposed Development and Disposition Agreement (“DDA”) that are not outlined in the staff report. A copy of the DDA is on file with the Port Commission Secretary.

Construction Scope of Work/Construction Documents

The DDA has provisions governing construction documents and Scopes of Work, including:

- A Scope of Work can be revised from time to time;
- Deferred Additional Work (Pier 26-28) will be determined under a separate Scope of Work agreed-upon at time of the applicable Long-Term DDA/Long-Term Lease;
- The Port has approval over construction documents in its proprietary and regulatory capacity, but must exercise approval in its reasonable discretion, subject to arbitration provisions; and
- The Port must approve construction documents within 30-days of submittal.

Provisions Governing Construction

The DDA has provisions governing Authority construction activities, including:

- The Authority must submit quarterly financial reports to provide the Port with a good faith estimate of its Authority Infrastructure Work costs (the Investment Value Estimate), based on its Guaranteed Maximum Price (GMP) contracts and costs incurred to date of report;
- The Authority will invite the Port to weekly progress meetings and will disclose anticipated cost and Scope of Work changes at such meetings;
- Within 60 days after DDA is signed, the Authority will provide Port with its Pre-Development Costs (all soft costs related to event pre-DDA);
- For each Scope of Work, within thirty (30) days after approval of Scope of Work, the Authority will provide Port with estimated budget for the Scope of Work and evidence of availability of funds to complete the improvements;
- The Port will have five (5) days after submittal of budgets to object to any item that it believes is not within an approved Scope of Work, with disputes subject to arbitration;

- From and after issuance of first building permit for a Scope of Work, the Authority will submit monthly reports showing any changes in the estimated costs and anticipated change orders;
- At earliest feasible opportunity (including weekly progress meetings), the Authority will share with Port any requests for change orders or changes in project schedule or scope of work, and changes that would result in any line item exceeding 10% of estimated budget;
- If anticipated changes that would exceed 10% of estimated budget, the Authority will consult with the Port to discuss cost-containment and value-engineering measures;
- The Authority will provide the Port with 30-days' notice before negotiating GMP contracts for the Scopes of Work, to allow Port ability to obtain its own cost estimates;
- The Port must review bid packages and can approve changes in any Scope of Work, including review of cost increases;
- The Authority will provide a Completion Guaranty of its improvement obligations, but only to extent necessary to restore a particular Venue to in a condition as good as when it was delivered;
- The Authority's Completion Guaranty may also be used to secure the \$24 million obligation that is a pre-condition to actual fee transfer of Seawall Lot 330;
- The Authority and the Port will establish final Project Costs to determine Investment Value as follows:
 - Within 60-days after effective date of DDA, the Authority will provide a statement of all pre-development costs;
 - Within 120 days after completion of each scope of work, the Authority will furnish an itemized statement certified by its CFO or an independent CPA of all Project Costs; and
 - The Port has right to audit the Authority's books and records to establish "Certified Project Costs" for each Scope of Work, with audit differences of more than 5% compared to Authority Project Costs paid for by Authority;
- The Authority will provide construction-related insurance requirements, as set by the City Risk Manager; and
- The Authority will adhere to a Workforce Development Plan, including City requirements such as First Source Hiring and prevailing wage, for all construction work.

Casualty/Risk of Loss

If casualty (earthquake, fire or other major property damage) occurs to any Venue pre-delivery, the Port has the obligation to provide functionally equivalent site. If it occurs pre-delivery for a venue with major construction, and any required repair is less than \$500,000, the Authority must still accept premises and repair costs are subject to reimbursement. However, if the casualty occurs before delivery of the Venue and repair costs exceed \$500,000, the Authority has the option to terminate or accept delivery. In this event, the Port will not be obligated to pay for repair costs beyond available insurance proceeds.

Defaults and Remedies

The DDA provides for the following Authority defaults and remedies:

- If the Authority fails to make a payment that is not cured within 30 days, the Port may add the unpaid amount to the Legacy Value (e.g., what it is providing to the Authority for Investment Value);
- If the Authority fails to comply with Workforce Development Plan, the remedies are limited to those described in that Plan;
- If the Authority's Guarantor fails to perform or falls below net worth test and Authority doesn't replace the Guaranty within 30-days, the Port may terminate the DDA;
- If the Authority fails to comply with any other of its obligations under the DDA and is not cured within 30-days, or the Authority is not diligently pursuing a cure, the Port may terminate the DDA or pursue an action for specific performance and damages;

Where an Event of Default would materially impair the Authority's ability to stage the Event in the City or impair its long-term development rights, Authority may cure the default by paying to the Port the amount of damages that the Port has incurred due to the default.

The DDA provides for the following Port defaults and remedies:

- If the Port fails to deliver a Venue or functionally-equivalent space acceptable to the Authority when required, the Authority may terminate.
- If the Port fails to perform any other obligation and the default remains uncured within 30-days or can't be cured within 30-days, the Authority may terminate the DDA or pursue an action for specific performance or damages limited to \$32 million ACOC bond.

Dispute Resolution

The DDA provides for an expedited arbitration procedure in place for certain disputes, including:

- Whether a work of improvement is a Regulatory Condition of Approval;
- In the event of a casualty occurring to a Venue before its Delivery, whether the cost of repairs would add more than \$500,000 to the Estimated Scope of Work Cost;
- Approval or Disapproval of Construction Documents and related matters;
- Conflicts between Project Requirements and other Governmental Requirements;
- Whether a space offered by the Port in lieu of a Venue is considered functionally equivalent;
- Whether or not an item is within the Approved Scope of Work; and
- Whether the Port has failed to issue a Temporary Certificate of Occupancy.

Attachment E: Scope of Work and Port Approvals

Authority Infrastructure Work – Pre-Match Scope of Work Requirement

Based on the Port's review of the proposed Scope of Work and associated cost estimates, including review by the Port's third-party engineering consultants of key elements, the Port finds that the Event Authority has met the requirements of Section 6.5 of the Host and Venue Agreement to identify a minimum scope of work for the Authority Infrastructure Work with an estimated cost of \$55 million to be constructed before the Match.

This Scope of Work approval applies to work proposed by the Event Authority that is contemplated in the Final Environmental Impact Report for the 34th America's Cup and the James R. Herman Cruise Terminal and Northeast Wharf Plaza, and is in the process of being reviewed and permitted by the U.S. Army Corps of Engineers, NOAA Fisheries Service (NOAA Fisheries), the California Department of Fish & Game, the San Francisco Bay Regional Water Quality Control Board (RWQCB), the San Francisco Bay Conservation and Development Commission, and the Port.

The Scope of Work approval is conditioned on receipt of permits required for the proposed work, and submission of 30% designs and cost estimates for the work proposed. The Disposition and Development Agreement provides a mechanism for the Event Authority to propose modifications to the proposed Scope of Work and to propose new work at one or more Venues, either before or, at designated Venues, after the Match.

Authority Infrastructure Work Proposed Scope of Work and Port Approvals

The Event Authority proposes to conduct the following Authority Infrastructure Work before the Match, pursuant to Section 6.2 of the Host and Venue Agreement:

Pier 30-32 Improvements

Event Authority Proposed Scope of Work: The Event Authority proposes to make a number of temporary and permanent improvements and repairs to Piers 30-32 to support full access and team base operations.

The proposed improvements include:

- A permanent infill structure to raise the existing depressed valley (approximately 3'6" deep) between Piers 30 and 32 to provide a level surface throughout the Pier. The infill structure will consist of a reinforced concrete slab and beam system supported on short (approximately 2 feet high) columns, which are located directly over existing piling.

- Permanent roadways along the eastern, northern, southern perimeter and in the new infill area at the center for emergency vehicle access, truck delivery, and 300 ton truck crane access for team base erection.
- Pads for tower cranes along the southern edge of the Pier 32 to launch and retrieve vessels;
- Most of the Piers 30-32 deck and supporting piles (except for roadways and crane access areas) will be repaired as required to support 250 PSF live load and light vehicles (H10 loading with maximum wheel load of 8 kips) and loads associated with moving racing vessels around on wheeled cradles. Roadways areas will be strengthened to support HS20 Truck loading. Crane access areas will be strengthened to support crane loads.
- Seismic strengthening of the Piers 30-32 substructure, including separating the piers from the marginal wharf by creating a seismic joint between the two structures. The creation of seismic joint will require about 39 new 18" diameter concrete piles (this number could be as high as 45 subject to final determination by the Port's Chief Harbor Engineer) to support marginal wharf. The seismic strengthening of Piers 30-32 will involve installation of 42-6 foot diameter steelsd piles in groups at four locations with a concrete cap beam at each location.

Based on a detailed investigation performed, approximately 25% of the older concrete caisson piling is deteriorated due to environmentally induced corrosion and wave action. These piles will be repaired by installing a new reinforced concrete jacket extending from the pile cap to the seabed (with formwork left in place). A number of piles will receive crack repairs such as epoxy injection or concrete patching at the top near their connection to the beam and slab deck. No more than 10 existing piles in deteriorated condition will be replaced in their entirety.

Portions of the substructure deck framing will be repaired or replaced as needed. Selective demolition of the existing deck is required to drive the piles and a new concrete beam and deck system will replace any demolished areas.

Utilities

Piers 30-32 currently has a working water meter and a number of small diameter water lines along the south edge of Pier 32 and in the center depressed area. A new 4" ductile iron water line from an existing 8" main in the Embarcadero will be installed under the deck slab to the center depressed area where the 4" line will be below new raised deck slab in the "crawl space."

The on-site sewer collection and conveying system includes 3" force mains under the team support module to a package lift station located at the center of team bases between Team Bases 5 and 6. From the package lift station, the sewage will be pumped through a new 4" force main through the center depressed area and on to an

existing pump station where the station will be equipped with duplex vertical turbine pumps that each alone has the sufficient capacity to discharge the sewage through an existing below-deck, 4" force main to the City gravity system in the Embarcadero. New hangers will be installed to support the 4" force main.

Post-construction BMPs will be installed as part of the deck infill/replacement project to provide additional protections to water quality. The Event Authority will install shallow treatment filters along a significant portion of these piers. The intent will be to maintain the existing grades and install shallow treatment filters at several existing storm drain inlets. The shallow treatment filters are typically granular activated carbon and debris filters with replaceable cartridges.

Stormwater management features will be constructed consistent with the San Francisco Stormwater Management Guidelines will be installed in coordination with the San Francisco Public Utilities Commission (SFPUC) as detailed in a Stormwater Control Plan.

Soft Costs and Regulatory Requirements

Soft costs for this work include direct costs of developing design and engineering plans for this work. Regulatory requirements include all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Port Approval: The Port approves all deck and non-seismic structural improvements to Piers 30-32, except as noted below, subject to final approval of a Stormwater Control Plan for the site.

Please provide the following revisions to the AECOM proposed structural alteration plan for Pier 30-32:

1. Consider deleting the requirement for structural alteration for drainage leveling of approximately 18,000 square feet on the south side of Pier 30-32, adjacent to the crane lift area and north of the originally proposed south access roadway location. Demonstrate the minimum leveling needed from an operational standpoint and consider a non-structural paving solution.
2. The 30% structural alteration seismic trigger as per Port Building Code Section 3404.7 is assumed to be exceeded. Perform a non-linear response history (time-history) analysis using past earthquake events as suggested by the BCDC Engineering Criteria Review Board.

The Port conditionally approves the proposed forty-two (42) 6 foot steel seismic piles, or any portion thereof, as well as the proposed seismic joint, if required to meet Port Building Code's seismic requirements. The Event Authority shall continue to consult with the Chief Harbor Engineer about methods to meet seismic code requirements. Regardless of whether the full forty-two (42) pile seismic pile upgrade and the seismic

joint are constructed pre-Match, this work shall be deemed Authority Infrastructure Work if constructed within five years after the Match.

The Port approves water and wastewater utility upgrades. Approval of stormwater improvements is subject to final approval of a Stormwater Control Plan.

The Port approves all regulatory requirements, including all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit details regarding soft costs. Legal costs are not eligible as reimbursable costs.

Pier 27-29 Improvements

Event Authority Proposed Scope of Work: The Event Authority proposes to make permanent upgrades and repairs to make the following improvements to Piers 27-29:

1. Demolish Pier 27 shed.
2. Demolish the Pier 27 Annex Building
3. Install 121 shallow stormwater catch basins¹⁶ in the ground transportation area, the north park area and the Pier 27 eastern apron according to an approved Stormwater Control Plan for the Piers 27-29 facility.
4. Pier 29 substructure repairs.

Repair 11-15 piles with reinforced concrete jackets.

5. Demolish a portion of Pier 29 shed and construct new Pier 29 shed east/corner wall consistent with Secretary of the Interior's Standards for Treatment of Historic Properties.

Consistent with the recommendations of the memorandum prepared by Architectural Resources Group, "America's Cup Improvements, Piers 27-29, Project Consistency with the Secretary's Standards," memorandum to AECOM, dated April 13, 2011, demolish not more than 21,915 square feet of the Pier 29 transit shed, including not more than 210 feet of the historic north wall.

Construct a new east/corner wall for Pier 29, separated from the existing walls of the shed by a shallow reveal, distinguishing the new construction from the historic structure.

Port Approval: The Port will undertake demolition of the Pier 27 and 29 sheds, along with the Pier 27 Annex Building to facilitate coordination with cruise terminal

¹⁶ Kristar Model FB24 Stormwater Catch Basins

construction and site staging. The Port approves all other proposed work, subject to final approval of Stormwater Control Plan for the site. Pursuant to further discussions with the Event Authority, the Port retains the option to conduct other elements of this proposed Scope of Work in the Pier 27-29 area until such time as the Event Authority has entered construction contracts to perform that work.

The Port approves all regulatory requirements, including all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit details regarding soft costs. Legal costs are not eligible as reimbursable costs.

Piers 32-36 Brannan Street Wharf Open Water Basin

Event Authority Proposed Scope of Work: To provide sufficient water depth for boat clearance, dredging and pile removal will be conducted within the Piers 32-36 Open Water Basin. Approximately 110,000 cubic yards (cy) of sediment will be dredged from this area. This total consists of a portion of dredging at a depth of approximately -15 feet Mean Lower Low Water (MLLW), plus a -2 feet for overdepth allowance. The sediment will be characterized and tested for multiple disposal options through the Dredged Material Management Office (UASCE, EPA, BCDC, RWQCB, SLC, state and federal wildlife agencies), which agencies make sediment suitability determinations through the sediment sampling and testing process. Piles will be removed, including the portion of piles beneath the mudline, to the extent feasible.

Port Approval: The Port approves dredging and pile removal in the area immediately to the south of Pier 32 in an area sufficient to provide access by AC72 catamarans to the proposed cranes along the south face of Pier 32, and to provide access to any large spectator vessels that will moor along the south face of Pier 32. The portion of this work related to mooring and access for large spectator vessels shall be deemed as Additional Work for purposes calculating Marina Rent Credits and for triggering the Event Authority's long-term marina rights in this area.

The Port conditionally authorizes dredging and pile removal in the area proposed for mooring of the AC72 catamarans in the Piers 32-36 Brannan Street Open Water Basin. The Event Authority shall use reasonable efforts to limit the proposed dredge to serve the number of AC72 catamarans that will actually be competing (and thus require mooring locations). To the extent that fewer mooring locations are required, the Event Authority will reduce the proposed dredge area by moving the southern boundary of the dredge to the north, first eliminating the portion of the proposed dredge under the former footprint of Pier 36. The Port will coordinate with the Event Authority to request that America's Cup Race Management survey the competing teams prior to the proposed dredge to determine minimum dredge depth requirements. The Port will provide final approval of the remainder of this proposed dredge no later than June 1, 2012.

The Port approves all regulatory requirements, including all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit detail regarding soft costs. Legal costs are not eligible as reimbursable costs.

Pier 19 Apron Repair and Pier 23 Handrail

Event Authority Proposed Scope of Work: To fulfill BCDC public access requirements for the Event, repair the Pier 19 south apron. This work consists of replacing up to 74 new bearing piles. The work also includes demolishing and disposing 2,800 square ft. of rotted decking and stringers and replacing with new. 702 linear feet of cap beams will also be replaced. Install a permanent 760 lf handrail along the Pier 23 north apron.

Port Approval: The Port approves all regulatory requirements, including Pier 19 repair and the Pier 23 handrail, and all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit details regarding soft costs associated with construction of the Pier 23 handrail. The Port paid for soft costs associated with Pier 19 south apron repair and provided these designs to the Event Authority. Legal costs are not eligible as reimbursable costs.

Pier 64 Pile Removal and Caspian Tern Replacement Nesting Platform and Pier 1/2 Pile and Deck Removal

As a proposed public benefit associated with the proposed use of areas designated by the Bay Conservation and Development Commission and to mitigate for fill and habitat impacts associated with the RWQCB and the NOAA Fisheries Service permitting, the Event Authority proposes to remove Pier 64 near Mission Rock. This pier consists of a collection of remnant piles adjacent to the Mission Bay Bayfront Park encompassing approximately 234,250 square feet of water area.

It is possible the proposed fill removal at Pier 64 could result in the loss of approximately 1,500 sq ft platform used by Caspian terns. As part of the proposed fill removal project, to the Event Authority will create a 1,500 sq ft bird platform that can withstand 100-year base flood conditions and sea level rise to 2050. The platform would require approximately 8 - 16" concrete or steel piles (approximately 12 sq ft of replaced permanent fill). This platform will be a net legacy improvement for Caspian terns since the existing platform is dilapidated and likely would not hold up much longer.

As a further BCDC public benefit and fill mitigation for the RWQCB, the Event Authority proposes to remove Pier 1/2 located between the Ferry Building and Pier 1. Removal of

this pier including supporting piles, caissons and the pier deck would open up approximately 21,187 sq ft of decking over the water.

Port Approval: Consistent with discussions with the RWQCB and other resource agencies, the Port approves the proposed Scope of Work, subject to the Event Authority's agreement to implement a comprehensive approach for removing piles at both Pier 64 and Pier ½. Specifically, the preferred method of removal will be removal of piles through vibratory extraction, followed by direct pull, clamshell removal and cutting, as necessary based on site-specific investigations, consistent with the approaches identified in the Subtidal Habitat Goals Report to remove piles.

The Port approves all regulatory requirements, including Pier 64 removal and a replacement Caspian Tern nesting platform, Pier ½ removal, and all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit details regarding soft costs. Legal costs are not eligible as reimbursable costs.

Additional Work Pre-Match

Event Authority Proposed Scope of Work: The Event Authority proposes to conduct the following Additional Work before the Match, pursuant to Section 6.7(a) of the Host and Venue Agreement:

Piers 28-30 Water Basin

To accommodate sponsor and spectator boats, dredging will be necessary on the south side of Pier 28 to achieve a depth of - 12 ft MLLW. Approximately 5,000 cy of sediment will be characterized and tested for various disposal sites through the DMMO regulatory process.

North of Pier 14 and Piers 14-22½ Rincon Point Open Water Basin

To accommodate temporary berthing of spectator and Event sponsor vessels, dredging north and south of Pier 14 to a depth of – 12 ft MLLW. Approximately 24,000 cy will need to be dredged and disposed of through the DMMO regulatory process.

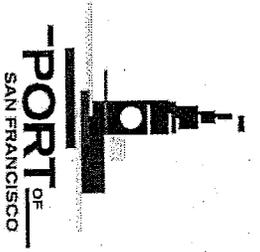
Pier 9

To accommodate spectator vessels, dredging a depth of -12 ft MLLW. Approximately 10,000 cy will need to be dredged and disposed of through the DMMO regulatory process.

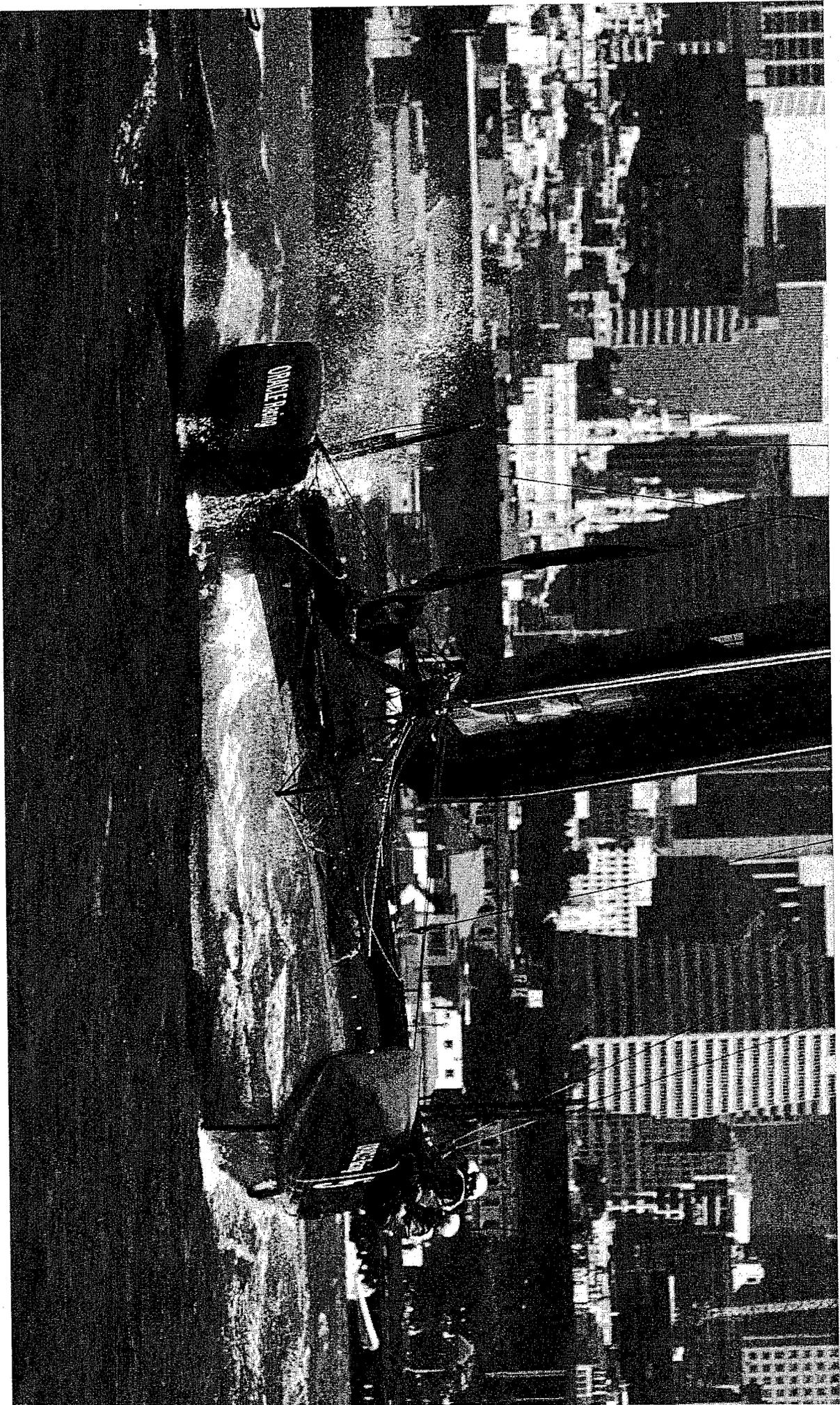
Port Approval: The Port approves the proposed dredging subject to approval by the Dredged Material Management Office. The southern boundary of the dredge proposed in the Rincon Point Open Water Basin shall be to the north of the northern boundary of Rincon Park to preserve open water views for the public.

The Port approves all regulatory requirements, including all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit detail regarding soft costs. Legal costs are not eligible as reimbursable costs.



The America's Cup in San Francisco



Overview

- Project Overview
- CEQA
- Disposition and Development Agreement
- Scope of Work Approval
- Financial & Economic Analysis
- Policy Analysis & Recommendations

Alphn

Alphn

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Event Partners

- City & County of San Francisco
 - CEQA/NEPA, Permits, Implementation Plans
- America's Cup Event Authority
 - Sponsorship and Television
- America's Cup Race Management
 - Landside & on-water event management
- America's Cup Organizing Committee
 - 501(c)3 formed to offset City's host costs
- *Signatories to the Host and Venue Agreement*



The America's Cup: A Global Event

AC World Series

Aug 2011 - June 2012

Cascais, Portugal: Aug 6-14

Plymouth, UK: Sept 10-18

San Diego, USA: Nov 12-20

Naples, Italy: April 7-15

Venice, Italy: May 12-20

Newport, USA: June 23-July 1

AC World Series

Aug 2012 - June 2013

San Francisco, USA

August 11-19
August 27 - September 2

Venice, Italy: April

Naples, Italy: May 11-19

Additional
2012/2013 Dates
To Be Announced

San Francisco, USA

July 4 - Sept 1, 2013

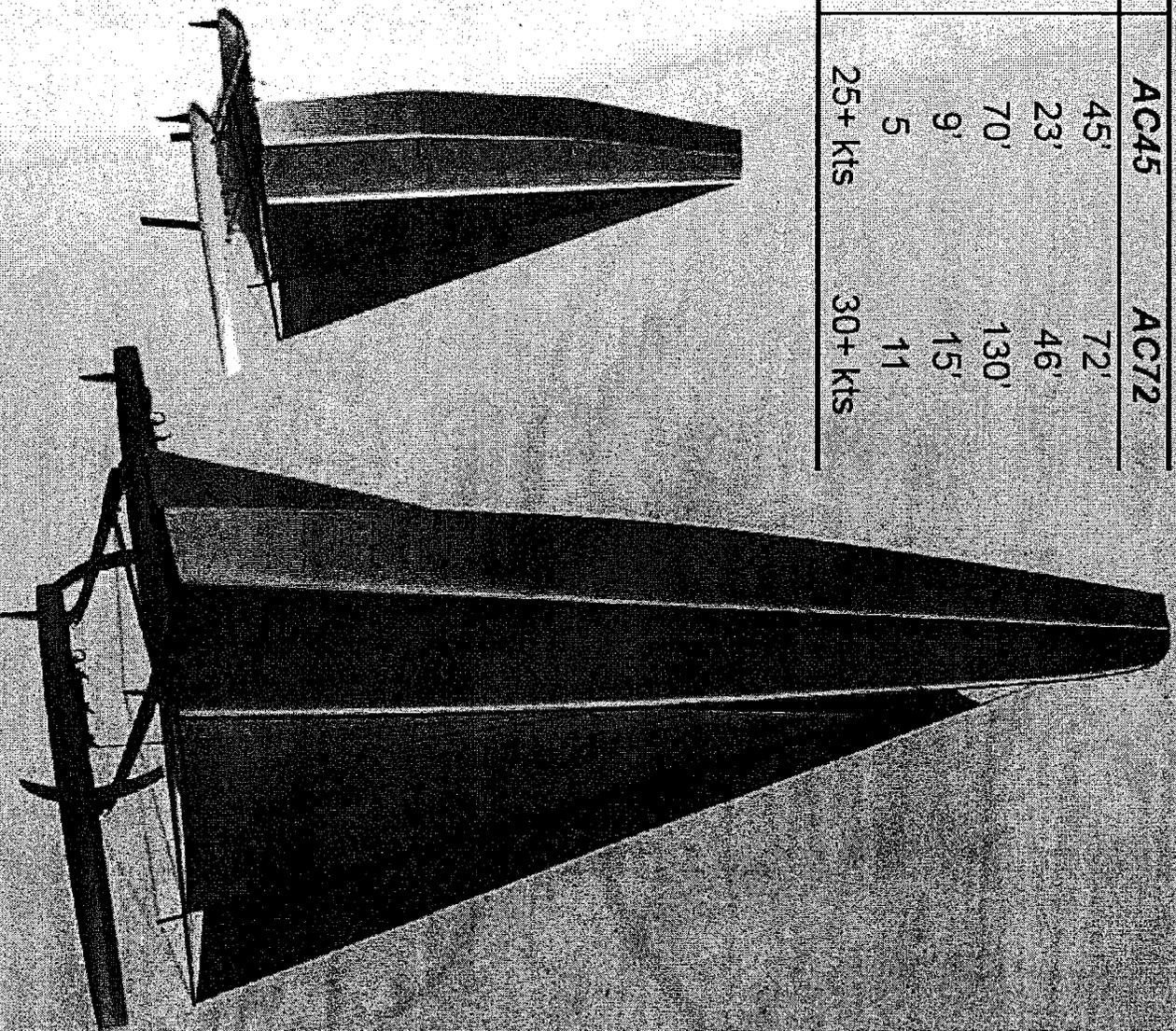
Sept 7-22, 2013


LOUIS VUITTON CUP
AMERICA'S CUP CHALLENGER SERIES

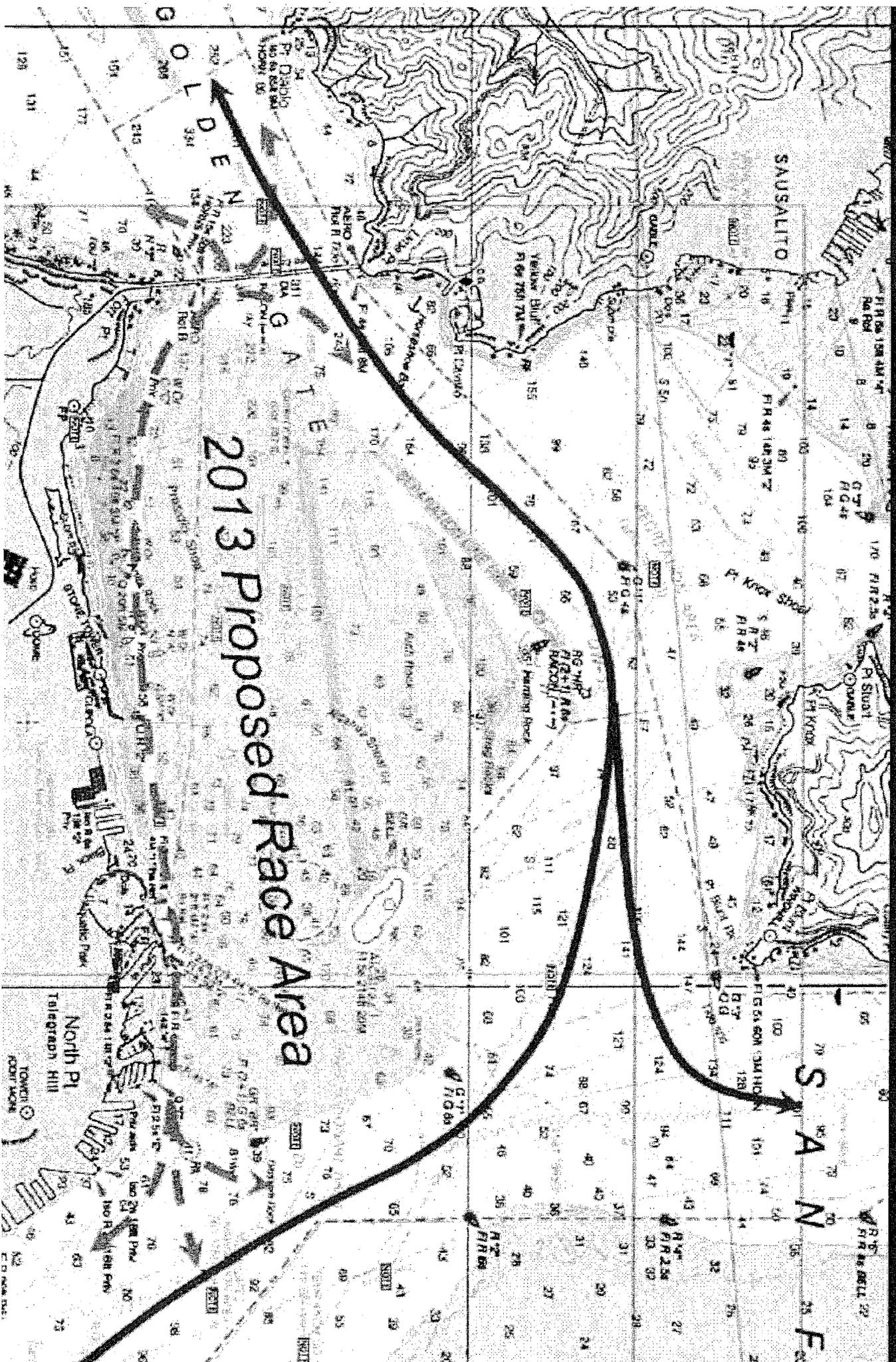

34 AMERICA'S CUP
SAN FRANCISCO 2013

AC45 in 2012 vs. AC72 in 2013

	AC45	AC72
Length	45'	72'
Beam	23'	46'
Height	70'	130'
Draft	9'	15'
Crew	5	11
Speed	25+ kts	30+ kts



Proposed 2013 Course Area



California Environmental Quality Act

- **Publication:** The FEIR, with Comments and Responses and project updates, was published on December 1
- **Certified:** The Planning Commission voted to certify the EIR on December 15 by a vote of 5-0
- **Appeal:** A 20 day appeal period runs from Planning Commission certification
- **Findings:** Based on the analysis in the FEIR, the Port Commission must select a project by adopting CEQA findings for the project prior to taking any further steps related to the proposed project

Implementation Plans

Table 1: Implementation Plans Available on www.oewd.org Website

Advertising	Posted	Team Base Operations	2012
Ambush Marketing	Posted	Water and Air Traffic	Posted
Parks Event Operations	Posted	Workforce Development	December
People (Transportation)	Posted/Accepted	Youth Involvement	December
Public Safety	Posted	Zero Waste	Posted
Sustainability	Posted		

Changes through CEQA (cont.)

- **Findings:** As described in the EIR and CEQA Findings, the 34th America's Cup Project has been refined.
- **Project Changes:** Changes were made in response to:
 - ✓ Adjustments learned from race events
 - ✓ Authority and America's Cup Race Management commitments to clean vessels and equipment
 - ✓ Other Project refinements
 - ✓ DEIR information about environmental effects
 - ✓ comments from the public, organizations, and regulatory agencies, and through the City interagency coordination.
- **Process:** The process has been very rigorous and open. Port staff believes that a better Project has emerged from the process.

Changes through CEQA (cont.)

Changes include the following:

- **Reduced Construction:** elimination of wave attenuators, reduced floating docks and reduced construction to prepare Event Venues;
- **Bay Views:** reduced temporary spectator yacht berthing in the Rincon Point Open Water Basin, and no permanent marina, to preserve Bay views from Rincon Park;
- **Aquatic Park:** revisions to screen viewing of events in Aquatic Park, to preserve areas for swimmers, kayakers and recreational water users;
- **Embarcadero:** provisions to acknowledge a reduced scope of vehicle lane closure along The Embarcadero to manage transportation demand; and
- **Air Quality:** new, additional mitigation measures to reduce the severity of significant air quality impacts.

California Environmental Quality Act (cont.)

- **Pier 70 Shore Power:** FEIR includes a mitigation measure requiring a new shoreside power installation at the Pier 70 Shipyard, managed by BAE Systems, San Francisco Ship Repair (“BAE”).
- **Construction Schedule:** Subject to final agreement, construction of this measure would start in early 2012.
- **Benefit:** The new shoreside power facility will enable BAE to provide electrical power to passenger cruise, military, cargo and other industrial maritime vessels, dramatically reducing air emissions from Pier 70 before and after the Event.

California Environmental Quality Act (cont.)

CEQA Findings describe:

- **The Project** being approved and its environmental impacts
- Required mitigation measures to be implemented in a **Mitigation Monitoring and Reporting Program**
- **The FEIR alternatives** to reduce or avoid Project impacts
- **Reasons for rejecting** FEIR alternatives
- **Overriding considerations** for approving the Project

The changes and refinements incorporated in the Project for approval represents the environmentally superior program of all studied in the FEIR

California Environmental Quality Act (cont.)

Port staff recommends adoption of the project including:

- the current AC34 Event Plan;
- reduced construction activities and enhanced mitigations;
- a reduced development footprint that does not include Piers 19, Piers 19½ and 23; and
- revised marina locations that address concerns raised by the Bay Conservation and Development Commission.

Port Commission Approvals

- CEQA findings and mitigation monitoring program
- Disposition and Development Agreement for ACC34 venues (DDA)
- Form of Venue Leases and Licenses per DDA (early 2012)
- Transfer Agreement for Seawall Lot 330 (2012, subject to General Plan referral)
- Tenant Relocation Plan
- Resolution of intent to form a Port Infrastructure Financing District (IFD)
- Phase 1 construction items related to the Pier 27 James R. Herman Cruise Terminal project

Form of Venue Lease

The following business terms have been negotiated between Port staff and the Authority, subject to approval in early 2012:

Term: The Venue Leases are short-term leases covering the period leading up to the Event and up to 6 months thereafter.

Commencement Date: Occupancy of various Port facilities:

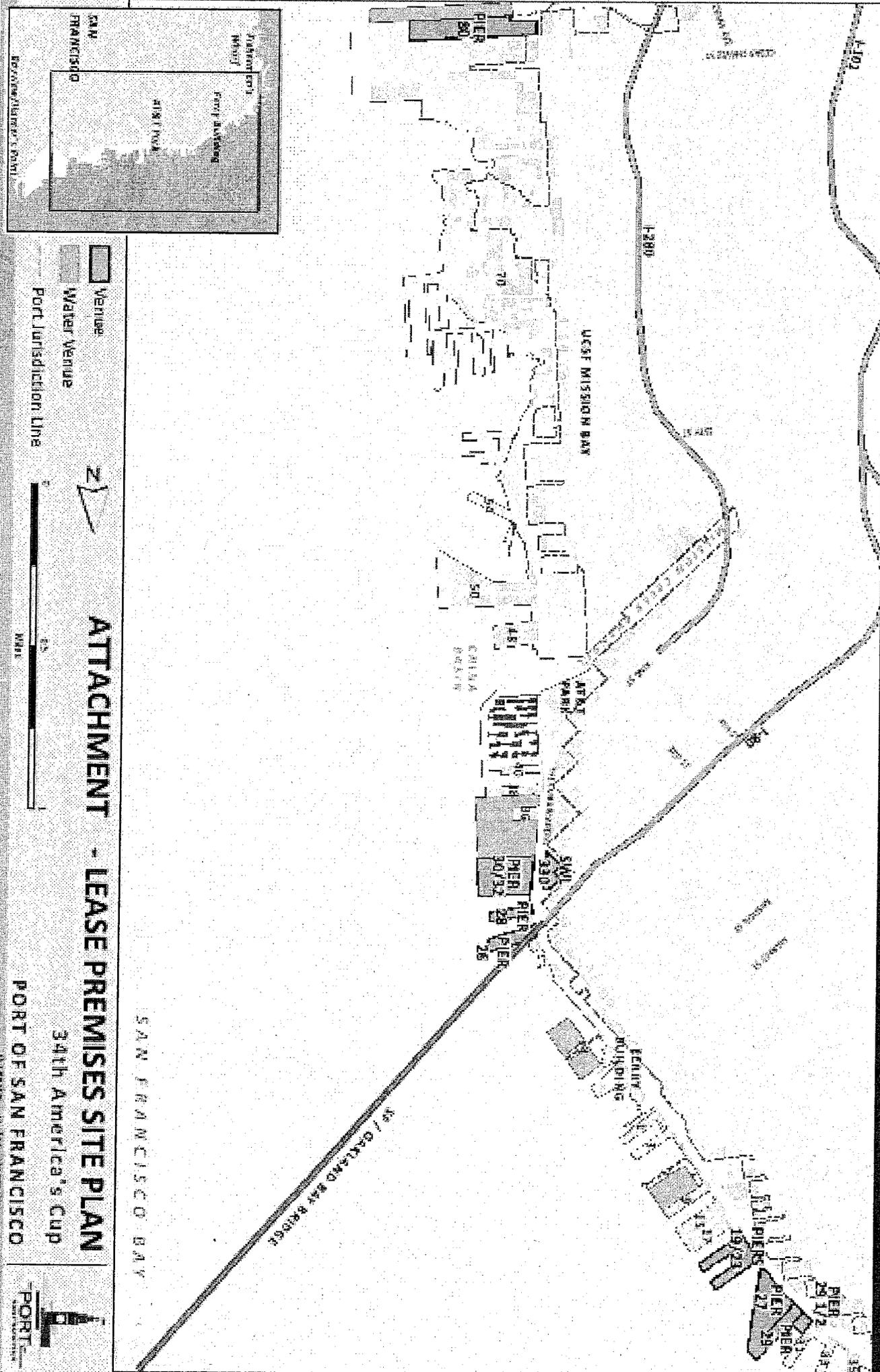
March 1, 2012 Pier 30-32

June 1, 2012 Piers 26, 28, 30-32, 19, 19½, 23, 29½

December 31, 2012 Seawall Lot 330

March 1, 2013 Piers 27-29

Venue Lease Premises



ATTACHMENT - LEASE PREMISES SITE PLAN

34th America's Cup

PORT OF SAN FRANCISCO

PORT OF SAN FRANCISCO

Development and Disposition Agreement (DDA)

The DDA is subject to approval by the Port Commission and the Board of Supervisors. Key purposes of the DDA are to:

1. set forth the **Authority obligations** to improve Port property for the Event,
2. govern Port review and **approval of scopes of work** for pre-Match and later improvements to Port property,
3. govern conditions for **Port delivery of the Venues**, and
4. set forth the means to **reimburse the Authority for its improvements** on Port property.

DDA – Port Required Work

Table 1: Required Port Work

Pier 36 Removal	January 1, 2013 (U.S. Army Corps of Engineers)
Brannan Street Wharf	June 1, 2013
Relocate Pier 27 Shore Power	2012
James R. Herman International Cruise Terminal – Pier 27	March 1, 2013

The Port will have a limited right to use Pier 27 for cruise ships between March 1 and May 31, 2013, subject to the Authority's sole discretion.

DDA – Authority Work

Table 2: Authority Infrastructure Work and Additional Work

Authority Work	Description
Authority Infrastructure Work	<p>Authority Infrastructure Work (AIW) is comprised of certain pre-Match work performed by the Authority:</p> <ul style="list-style-type: none">• Piers 30-32 work required to stage the Event;• Demolition of the Pier 27 shed, and portions of Pier 29 (Port will undertake);• \$2 million for relocation of shoreside power;• Regulatory Conditions of Approval; and• MMRP mitigation measures compliance.
Additional Work	<p>Additional Work consists of dredging to accommodate spectator vessels and substructure strengthening improvements to Piers 26 and 28.</p>

DDA – Authority Work

Table 2: Authority Infrastructure Work and Additional Work (cont.)

Authority Work	Description
Deferred Authority Infrastructure Work	Deferred AIW consists of work at Piers 30-32 that may be deferred for up to 10 years after the Venue Lease for Piers 30-32 expires.
Deferred Additional Work	Deferred Additional Work consists of Piers 26 and 28 work that may be constructed up to 10 years after the Match.
All Other Work	The Authority may also undertake other work it deems necessary for the Event at its own expense.

DDA -- Long-Term Development Rights

Table 3: Authority Long-Term Development Rights

Piers 30-32 Legacy Lease	Rent-Free 66 Year Lease: Subject to \$55 Million pre-Match expenditure, Authority gains a rent-free 66-year lease of Piers 30-32, subject to approval of a Public Trust-consistent use program by the Port, the Board of Supervisors and the State Lands Commission.
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10 Year Option Period: The Authority will have 10 years after the Match to enter a DDA and Lease, subject to future CEQA analysis, and to complete a seismic upgrade at Piers 30-32 for future development.

DDA -- Long-Term Development Rights

Table 3: Authority Long-Term Development Rights (cont.)

Piers 30-32 Legacy Leases (cont.) **Cost Recovery:** Costs not recovered through the rent-free lease and fee title to SWL 330, along with all other pre-Match Authority Infrastructure Work, will generate rent credits with 11% annual interest repaid via:

- **IFD bond proceeds from Piers 30-32 and SWL 330;**
- **Piers 26 & 28 interim leases** at parameter rents;
- **Pier 29 long-term lease** at \$6 psf as escalated to lease commencement; and
- **If needed, a financial participation** of up to 50% of the proprietary lease revenues from the first 15 years of a subsequent lease of Piers 30-32.

DDA -- Long-Term Development Rights

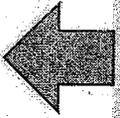
Table 3: Authority Long-Term Development Rights (cont.)

Seawall Lot 330 **Fee title:** SWL 330 fee title is transferred to the Authority through a transfer agreement subject to performing pre-Match Authority Infrastructure Work equal to or greater **\$24 million**.

Future CEQA and Approvals: Future development will be subject to CEQA analysis and other City approvals, and final approval action by the California State Lands Commission, but no further Port approval.

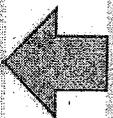
Basic Deal Summary

\$55 Million in Waterfront Improvements

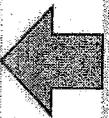


Rent-free lease for Piers 30-32, and sale of SWL 330 subject to State approval

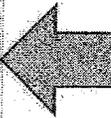
City Can Pay for Costs Above \$55 Million OR



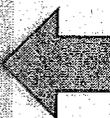
Piers 30-32 and SWL 330 IFD Debt Proceeds



Pier 26 and/or 28 at interim rents or \$6/sf



Pier 29 \$6/sf indexed



If needed, participation in subsequent Piers 30-32 lease

DDA -- Long-Term Development Rights

Table 3: Authority Long-Term Development Rights (cont.)

Piers 26 and 28 Legacy Option Leases **Long-term Leases:** Authority may obtain Piers 26 and 28 long-term leases at any time until 10 years after the Match, if the Authority performs Piers 26 and 28 substructure work.

Cost Recovery: Piers 26 and 28 post-Match substructure work repaid by:

- Rent credits at **Piers 26 & 28 base rent of \$6 psf**, subject to lease escalations (with market reset after 30 years or use of all rent credits) – see next page;

DDA -- Long-Term Development Rights

Table 3: Authority Long-Term Development Rights (cont.)

Piers 26 and 28 Cost Recovery: Piers 26 and 28 post-Match substructure work Legacy Option repaid by (cont.):
Leases (cont.)

- **Piers 26-28 IFD bond proceeds;**
- **Historic tax credits** from Piers 26-28;
- If needed, a **financial participation** in up to 50% of proprietary lease revenues from the **first 15 years of a subsequent lease of Piers 26 & 28**, or another source of funding to rehabilitate historic resources of equal to or greater value; and
- **Rent credits may transfer** among Piers 26 and 28 and marina leases.

DDA -- Long-Term Development Rights

Table 3: Authority Long-Term Development Rights (cont.)

Pier 29 Lease

Long-Term Lease: A long-term lease at \$6 per gross building sf escalated until lease commencement and interim use at parameter rents if required to reimburse Authority Infrastructure Work.

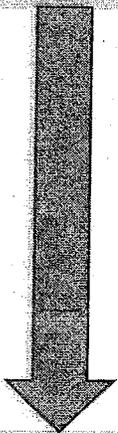
Marina Leases

ENA: Exclusive negotiating agreements to obtain long-term marina leases in the following areas:

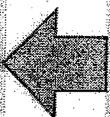
- Pier 54 including the water area around Pier 54, with rent credits for spectator yacht dredging around Piers 14 North and South and Pier 54 substructure improvements, subject to a 66 year commercially-reasonable lease starting no sooner than 5 years after the Match and no later than 10 years.
- The Brannan Street Open Water Basin, in exchange for dredging for spectator vessels pre-Match.

Basic Deal Summary (cont.)

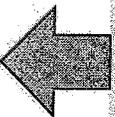
Legacy Option Leases at
Piers 26 and 28 (\$6/sf)



Piers 26 and 28 IFD Debt
Proceeds



Federal Historic Tax Credits



Rent credits are
transferable among Piers
26 and 28 leases and
marina leases (except for
Pier 54 substructure costs)

If needed, participation in
subsequent Piers 26 and 28
leases

Or another historic
rehabilitation financing tool
of equal or greater value

Board of Supervisors Approvals

- Approve a resolution of intention to form an IFD
- Adopt AC34 and James R. Herman CEQA Findings
- Approve the DDA, with specific proposed development and use at each future development site subject to further analysis pursuant to CEQA
- Approve various work plans required pursuant to the HVA, e.g., the People Plan, Workforce Plan, Zero Waste Plan
- Approve IFD financing plan and form IFD

Scope of Work Approval

Port staff recommends approval or conditional approval of Authority Infrastructure Work, with at least 30% plans and cost estimates:

- **Structural improvements to Piers 30-32, with water and wastewater utilities and partial seismic upgrade** based on further, refined seismic analysis, peer-reviewed by Port 3rd party engineer
- **Piers 30-32 Stormwater Control Plan** still pending review by Water Board
- **Pier 27 Stormwater Control Plan, Pier 29 pile repairs and new Pier 29 end wall**

Scope of Work Approval (cont.)

- **BCDC-related costs** including Pier 64 fill removal, Pier 19 south apron repair, and Pier 23 handrail
- **Dredging** at Pier 9, Piers 14 North and South, and Pier 28 south. Conditional approval of dredging at Piers 32-36, subject to further determination of actual dredging need.
- **Regulatory requirements** imposed by 1) FEIR mitigation measures, and 2) permits issued by any Regulatory Agency.
- **Soft costs** for this work include direct costs of developing design and engineering plans for this work.
- **Estimated pre-Match costs of \$74 million.**

Scope of Work Approval (cont.)

The post-Match seismic upgrade of Pier 30-32 is conditionally approved, based on:

- A requirement that the code-compliant design is produced based on a non-linear time history **seismic analysis**, subject to peer review by a Port 3rd party engineer, or another mutually agreed approach
- If mapped as a **flood hazard**, the Authority obtains flood mapping designations that permit mixed use development
- **Soft costs** for this work include direct costs of developing design and engineering plans for this work.
- **Estimated post-Match costs of \$31 million.**

Financial Analysis

Consistent with the Port Staff Report, negotiations to apportion these costs have been ongoing until recently.

- The staff report analyzes a different agreement;
- Port Finance Staff find that the proposed agreement is as good as or better than the proposed terms analyzed in the Staff Report.
- Port staff will publish a revised financial analysis for consideration by the Board of Supervisors Budget Analyst and will revise the Port Staff report to reflect the new agreement.

Financial Analysis -- (cont.)

**Table 4: Port Opportunity Cost
Based on Parameter Rent of Existing Facilities**

Land Value	
Seawall Lot 330	\$24,000,000
Lost Rent Streams (Projected Useful Life)	Present Value of Parameter Rent for Useful Life
Piers 30-32 (10 years)	8,568,265
Pier 26 (15 years)	12,831,584
Pier 28 (15 years)	7,518,499
Pier 29 (30 years)	12,708,161
Pier 54	No appreciable rent loss expected
Total	\$65,626,509

Infrastructure Financing District Debt Proceeds at all sites and the value of federal historic tax credits at Piers 26 and 28 will depend on the appraised value and eligible costs of future development proposals.

Policy Analysis – Project Benefits

- **San Francisco World-Class Sailing:** AC34 will establish San Francisco Bay's identity as a world-class venue for sailing in 2012 and 2013.
- **Public Access:** The Event will increase both short-term and permanent public access to the waterfront by providing public viewing opportunities of the America's Cup live racing events.
- **Port Infrastructure Upgrades:** The Authority will upgrade Port facilities consistent with the Port building code and the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- **Port Tenants:** AC34 will generate substantial new demand for the Port's retail and maritime tenants.

Policy Analysis – Project Benefits (cont.)

- **Environmental Stewardship:** The Authority and the City have emphasized the Bay and natural resource stewardship in the planning and management of all race events and operations.
- **Port Priorities:** AC34 has helped to accelerate the James R. Herman Cruise Terminal and Northeast Wharf Plaza.
- **Waterfront Land Use Plan:** The Authority will improve Piers 30-32 that is designated as a major development opportunity site in the Port's Waterfront Land Use Plan.
- **Jobs:** AC34 will generate thousands of local jobs leading up to and during the Event.

Policy Analysis – Project Risks

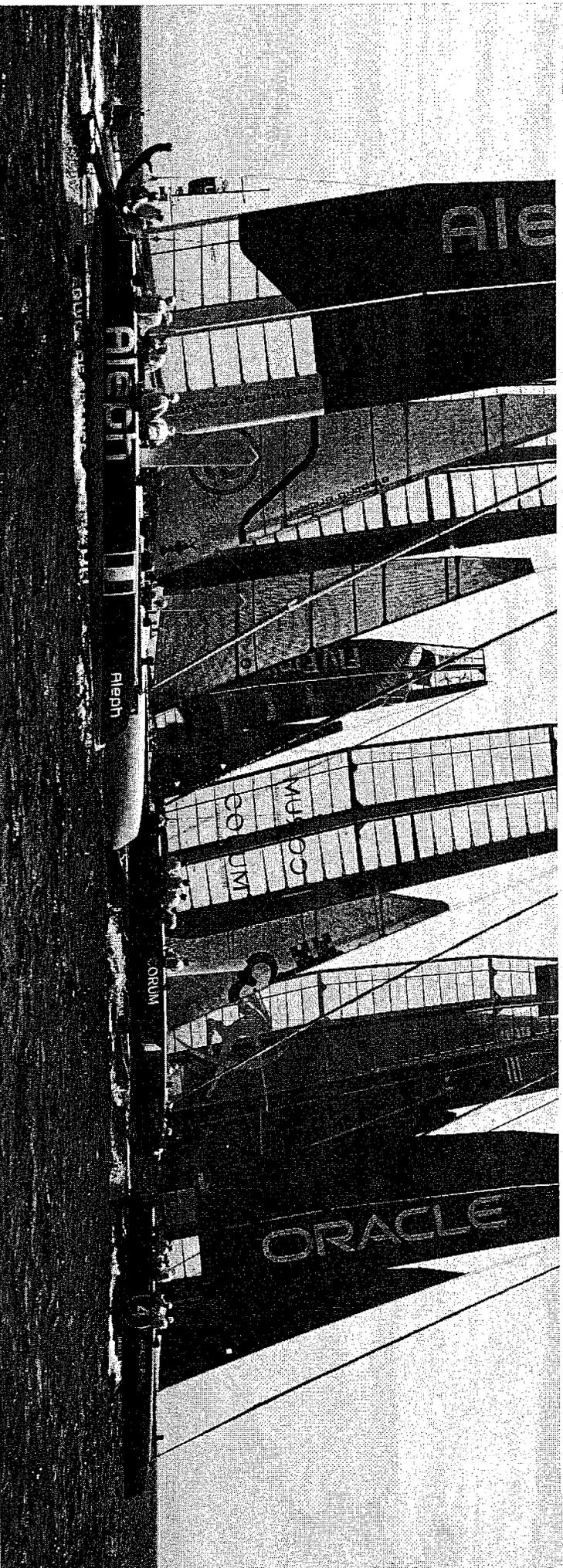
- **Cost Increases:** The projected cost of proposed waterfront improvements (\$105 million) substantially exceeds the costs previously estimated by the Authority and the Port.
- **No Financial Participation:** The terms of the DDA do not provide the Port financial participation in the future development of Piers 30-32 and Seawall Lot 330, contrary to standard Port development practice.
- **Property Re-leasing Risk:** Commencing in 2014, the Port may see a return of 3 to 6 finger piers to Port control. The Port will need to lease these piers to maintain revenues after the City's backfill of the Port's lost rent ends. To prepare, the Port may be required to make investments in these facilities to ready the facilities for future tenants.

Recommendations

- **Approve the Project**, as modified through negotiation and the CEQA process.
- **Authorize Port staff to develop a plan of finance for Port-** funded improvements for Port Commission consideration.
- **Approve the DDA:** Forward the DDA to the Board of Supervisors for its consideration in early 2012.

Appreciation

Port staff wishes to thank the Port Commission, City staff, state and federal agency, and the America's Cup Event Authority and Race Management for their help, commitment, and expertise.

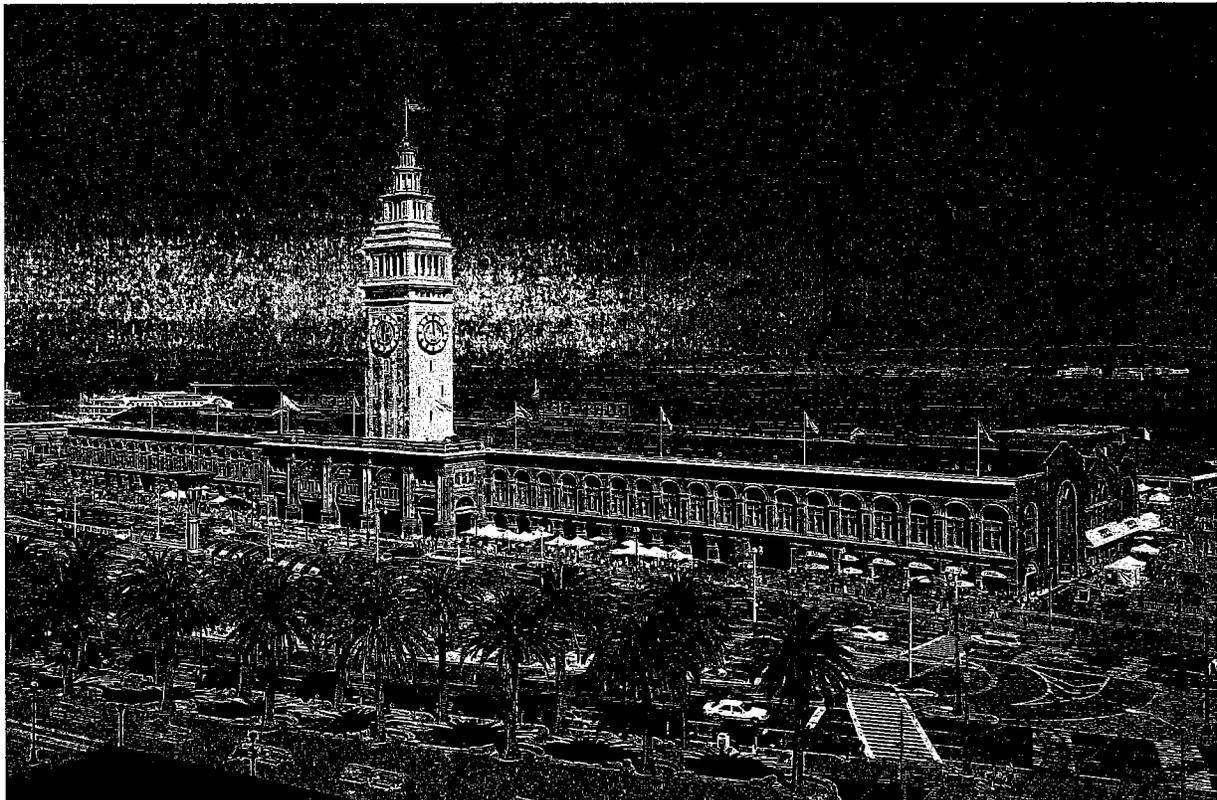




34TH AMERICA'S CUP ADVERTISING PLAN

For the 2012 and 2013 Regattas
on San Francisco Bay

City and County of San Francisco



January 2012

1. Overview

- a. The 34th America's Cup Host and Venue Agreement (the "Agreement"), signed by the City and County of San Francisco (the "City"), the America's Cup Event Authority (the "Authority"), and the America's Cup Organizing Committee (the "ACOC"), requires the City to develop and submit to the Authority an "Advertising Plan" by March 31, 2011.
- b. Section 10.1 of the Agreement specifically requires the City to "develop in consultation with the Authority and subject to the Authority's approval, a comprehensive and efficient program (the "Advertising Plan") to promote the Event (including decoration in the theme of the America's Cup, flags, America's Cup logo, billboards and other promotional marketing and merchandise) within San Francisco in the key advertising areas" listed in Section 4 below.
- c. A successful marketing campaign will raise the profile of the events for residents and visitors to the Bay Areas, which will assist in general spectator interest, support for America's Cup-related activities and the Authority's and ACOC's efforts in seeking sponsorships.
- d. As the premiere international sailing event, the America's Cup sailing regattas are expected to draw spectators and media from throughout the Bay Area, across the United States, and around the world. These visitors and the exposure the Events will bring to San Francisco are significant contributors to the City's economy, the local tourism industry, and the marketing of San Francisco as an international destination.
- e. This Advertising Plan is presented to the Authority in accordance with Section 10.1 of the Agreement. This Plan is offered as an initial set of strategies based on the current understanding of the America's Cup event plans that will be refined as those plans are further developed. The Agreement states that the Advertising Plan shall conform to the Brand Manual; at such time as the Brand Manual is available the City stands at the ready to work with the Authority to further develop and implement these strategies in accordance with its terms..
- f. The remainder of this Advertising Plan is organized as follows: Bay Area and San Francisco Market Demographics; Key Advertising Areas; Public Promotional Opportunities; Additional Privately-Placed Promotional Opportunities; and Other General Considerations.

2. Bay Area and San Francisco Market Demographics

- a. According to recently released figures from the 2010 census, San Francisco is the fourth largest City in California with a population of 815,358. However, its influence vastly exceeds its population as it remains the regional, financial and cultural center of the Bay Area.
- b. The San Francisco Bay Area is the most densely populated region on the West Coast with over 7 million residents and over 15 million annual tourists. Fisherman's Wharf and the Golden Gate Bridge draw more than 10 million visitors annually. The

area serves as the headquarters of such prominent companies as Visa, Gap, Levi's, Twitter, Pixar, Google, and Apple among others.

3. Key Advertising Areas

- a. The Agreement specifically identifies the following primary advertising locations:
 - i. within 5 kilometers of the America's Cup Village at Piers 27-29;
 - ii. within 2 kilometers of Crissy Field and Marina Green;
 - iii. along primary access routes such as Interstates 880, 280, and 980, and Highway 101 including Van Ness Avenue;
 - iv. within and around San Francisco, Oakland and San Jose International airports; and
 - v. in City squares and landmarks such as Union Square, Coit Tower, and City Hall.
- b. Opportunities in these locations consist of a combination of public and privately-placed promotional opportunities, as further described below.

4. Public Promotional Opportunities

The City and County of San Francisco routinely promotes events of citywide significance through its many public outlets. Given the significant benefit of the America's Cup to the entire Bay Area, the City and its partner regional agencies can offer the following public promotional opportunities to the Event Authority. The City will identify streamlined approaches to provide the Authority with access to each of the following opportunities and will use its best efforts to ensure that the Authority expeditiously receives all necessary authorizations and promotional opportunities within their different timelines, regulations, and approval mechanisms. Photo examples of some public promotional opportunities are attached to this Plan.

- a. Utility Pole Banners – The hanging of banners on City-owned utility poles is governed by Article 5.7, Section 184.78 of the Public Works Code. In accordance with that ordinance, the San Francisco Department of Public Works (DPW) grants permission to temporarily occupy over 3,000 City-owned utility poles (primarily poles with streetlights but no utility wires) in the public right of way for special events. In the past these have been used to promote specific neighborhood identities, city-sponsored events or events of citywide significance. Similarly, the Port of San Francisco separately permits 480 street banners in the center of The Embarcadero Roadway and on Jefferson Street through Fisherman's Wharf, the San Francisco Convention and Visitors' Bureau permits 73 street banners outside Moscone Convention Center and in Union Square and Hallidie Plaza, and the Recreation and Parks Department permits a limited number of banners in Golden Gate Park, McLaren Park, Civic Center, and Union Square. The City is prepared to authorize and facilitate access to utility poles to promote the America's Cup Events as a citywide special event as directed by the Authority, subject to the size, formatting, and other conditions set forth in the Public Works Code and available at <http://www.sfdpw.org/index.aspx?page=1188>.

- b. San Francisco International Airport (SFO) – As the premier gateway for domestic and international travel, SFO is well positioned to communicate the America's Cup Events to the travelling public. SFO has extensive, exclusive marketing and promotional space located throughout the terminals, rental car facility and garages. Subject to existing laws and contractual obligations, the Airport will make available advertising signs and street banners for the City's America's Cup effort. The City will also work with the ACOC to staff America's Cup welcome desks at SFO 12 hours a day during each stage of the event and will work with our partner agencies at Oakland International and San Jose International airports to do the same.
- c. Public Service Announcements: Media – there are a number of opportunities to promote the America's Cup Events through regional news agencies including print, electronic, television, radio, and foreign language media. The City will continue to work with regional media outlets to not only cover the Events as they occur but to provide the Authority with public service announcement opportunities related to the City's hosting of the America's Cup.
- d. Public Service Announcements: Advertising –the City has access to a percentage of all advertising space (see Additional Privately-Placed Advertising Opportunities below) for public service announcements (PSAs) through its contracts with Clear Channel for bus shelter advertising, Titan for bus and bus station advertising, Comcast for cable television, and JCDecaux for kiosks and newsracks. The Municipal Transportation Agency manages PSAs with Clear Channel and Titan and the Department of Public Works manages PSAs with JCDecaux. The City will work with the Authority to identify available spaces and strategies for public service announcements that highlight the public information issues that can serve to both inform the public and raise the profile of the America's Cup events.
- e. San Francisco Travel - the San Francisco Convention & Visitors Bureau, known as San Francisco Travel, has an extensive marketing platform that could be employed to promote the America's Cup events on the San Francisco Bay. That platform includes utility pole banners (as mentioned in 4.a above), trade and consumer publications, social media networks, visitor information kits, volunteers and extensive relationships with domestic and foreign media outlets. The City will work with the Authority to develop these materials to the extent that assistance is needed, and to facilitate further discussions with SF Travel regarding the Authority's preferred approach to utilizing this platform.
- f. Banners or Impact Lighting on City buildings – During the Major League Baseball World Series the exteriors of City Hall, Coit Tower, and the Ferry Building were lit with colored gels (orange for the San Francisco Giants) in the evenings surrounding the main event. Short-term banners were also affixed to the Polk Street, or Eastern, side of City Hall during the public parade in celebration of the Giants World Series victory. The City will work with the Authority to highlight the importance of the America's Cup events in and on City buildings.
- g. Web presence – the City's webpage www.sfgov.org and related department webpages will feature the selection of San Francisco as host city for the 34th America's Cup and will provide key public documents relating to the planning and approval processes for residents and other interested parties. In addition, City and Authority staff are currently working on ways in which City content can be added to

the www.americascup.com website to bolster its profile as the key web presence relating to the events. As the Events draw near, the City will collaborate with Authority staff on the appropriate use of the City and the America's Cup websites to promote the America's Cup and to share general information on race dates and times, transportation options, and other concerns to City residents and visitors.

- h. Social Networking – The City has been on the forefront of public use of social media to communicate with residents and visitors about everything from cultural events to street closures, press releases, and legal settlements. The City will work with the Authority to determine the appropriate profile for using these platforms to provide information of interest to City residents and visitors in relation to the City's hosting of the America's Cup.
- i. Informational Booths – the City can offer free space for informational booths at City-sponsored events (4th of July, New Year's Eve and Fleet Week in October) or privately sponsored events that require City permits, security or other involvement (Bay to Breakers, Treasure Island Music Festival, Outside Lands Music Festival, Nike Women's Marathon, Escape From Alcatraz Triathlon, San Francisco International Dragon Boat Festival) so long as merchandise is not offered for sale. If the Authority indicated interest in any of these opportunities, City staff can facilitate efforts to secure that space for Authority purposes. Other opportunities for information sharing include brochures, pamphlets, race maps, or small poster boards in City-owned places of public assembly such as branch libraries, recreation centers, City Hall, the Ferry Building, or museums. As the Authority develops such information, the City will coordinate appropriate locations for its placement.
- j. Special Events – City Hall plays host to a number of public and private events throughout the year in its magnificent Rotunda, North and South Light Courts, and Second and Fourth floors. From weddings to corporate events to formal balls for the San Francisco Opera Premiere and the Black and White Ball, this French Renaissance-style Beaux Arts National Historic Landmark can host receptions for up to 3,000 attendees and seated dinners for up to 1,900 at full capacity. The City's Events Department will work with the America's Cup Event Authority to meet their hosted needs. For more information see www.sfgov.org/cityhallevnts. Similarly, there are opportunities for hosted events in other City-owned facilities that could be discussed once the ACEA determines its special event needs.
- k. Flagpoles – The Mayor, at his or her discretion, can fly a flag of citywide significance from the second floor balcony of City Hall. This has been done in the past for everything from Bastille Day to Giants Opening Day. An opportunity to discuss with the Authority is the display of an America's Cup flag at City Hall, the Ferry Building, or on other significant City flagpoles on race days.

5. Additional Privately-Placed Promotional Opportunities

In addition to those public service announcement opportunities identified above, there exist a host of opportunities for market rate advertising. The majority of general advertising signs (bulletins, digital bulletins, wallscapes, posters, panels, digital panels, newsracks, transit shelters, and kiosks), whether outdoor or within transit station interiors are managed privately by Clear Channel Communications, Inc., CBS Outdoor, Titan Outdoor, or JC Decaux North America. The City will provide the Authority with contact

information for each of these outlets should they wish to contract directly with private vendors for additional advertising space. Photo examples of some privately-placed promotional opportunities are attached to this Plan.

- a. The San Francisco Planning Department keeps an inventory of all 1,672 general advertising billboards which can be accessed at <http://signmaps.sflplanning.com>.
- b. JCDecaux manages 25 public toilets and 113 advertising kiosks along rights of way in San Francisco.
 - i. From www.jcdecauxna.com : "These elegant, 24-hour backlit, 17-foot kiosks tower over the city's most populated streets, providing advertisers with oversized landmarks to showcase their messages. Our kiosks are the most striking outdoor media platforms to reach pedestrians and vehicular traffic in the Bay Area. Each kiosk has two ad panels. The panels are divided into pre-set networks, each with equal exposure to top locations. Kiosks are located throughout the heart of San Francisco's high-density business, entertainment, and shopping districts including Union Square, the Financial District and Fisherman's Wharf. This area represents the most geographically concentrated urban shopping area on the West Coast. Our kiosks have a potential audience of 7 million people in any two-week period."
- c. CBS Outdoor and Clear Channel Communications manage the majority of the 1,672 general advertising billboards in San Francisco
 - i. From www.cbsoutdoor.com : "CBS Outdoor dominates San Francisco and the adjacent municipalities, suburbs and neighborhoods throughout Northern California with outdoor advertising formats that include bulletins, spectaculars, posters, buses, shelters, malls and tall walls."
- d. Titan has the exclusive rights to sell advertising for MUNI, BART and AC Transit buses, rail cars and in station advertising.
 - i. This includes the San Francisco fleet, its nine subway stations, over 600 bus shelters and 1,000 vehicles but also those cars, shelters, and stations in Alameda, Contra Costa, and San Mateo Counties.
 - ii. From www.titan360.com : "we dominate the market and reach 96.6% of the population with our Rail and Bus media."

6. Other General Considerations

- a. For both public and private promotional opportunities, the Event Authority will be responsible for all artwork and production costs of America's Cup advertising.
- b. The City will use its permitting and enforcement powers to protect all registered trademarks and copyrights associated with the America's Cup in accordance with the Ambush Marketing Plan.
- c. Article 6 of the San Francisco Planning Code regulates the time, place and manner of all signage in San Francisco. Unless otherwise amended by the Board of

Supervisors, all signage for the America's Cup must comply with these citywide provisions. Particular provisions related to the promotion of the America's Cup include:

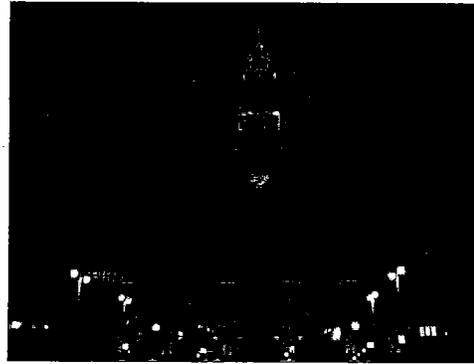
- i. The prevention of new general advertising signs in San Francisco other than those already permitted as of the 2002 passage of Proposition G (Section 611). According to Planning Department inventories, there are 1,672 legal general advertising signs in San Francisco;
 - ii. Existence of the "Northeast Waterfront Special Sign District" (Planning Code Section 608.15) west of the Embarcadero just past Sansome and between Broadway and Union Street and the Van Ness Avenue special sign district which further limit the height, extension and availability of advertising in these areas.
- d. Given the scope and duration of the America's Cup Events, the City will work with the Authority to identify a streamlined process for Cup-related promotional activities, potentially including a single point of contact or other approaches that allow for prompt processing of permits or other authorizations.

Examples of Public Promotional Opportunities

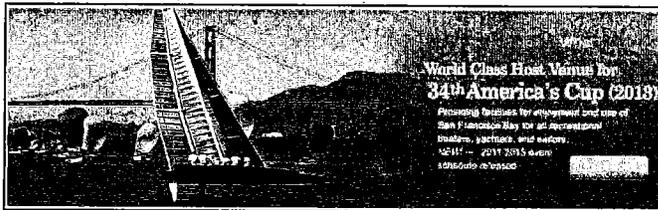
Utility Pole Banners



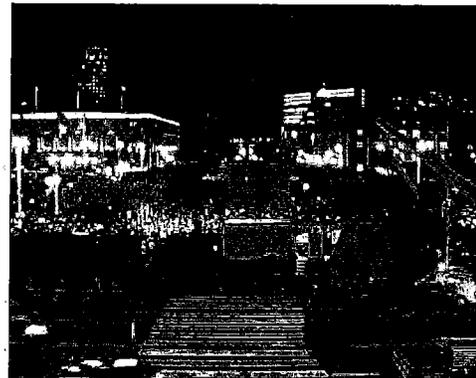
Impact Lighting



Web Presence

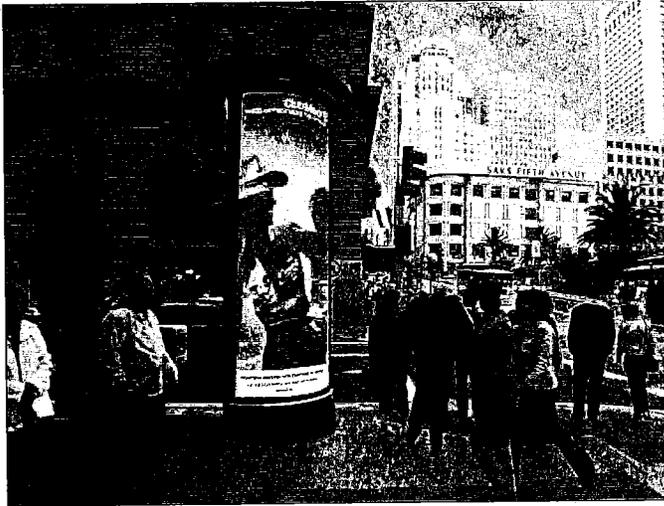


Flagpoles



Examples of Privately-Placed Advertising Opportunities

Kiosks



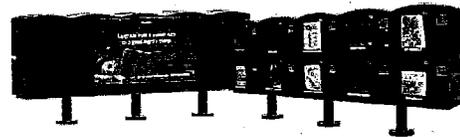
Bus Shelters



Outdoor Billboards



Newsracks

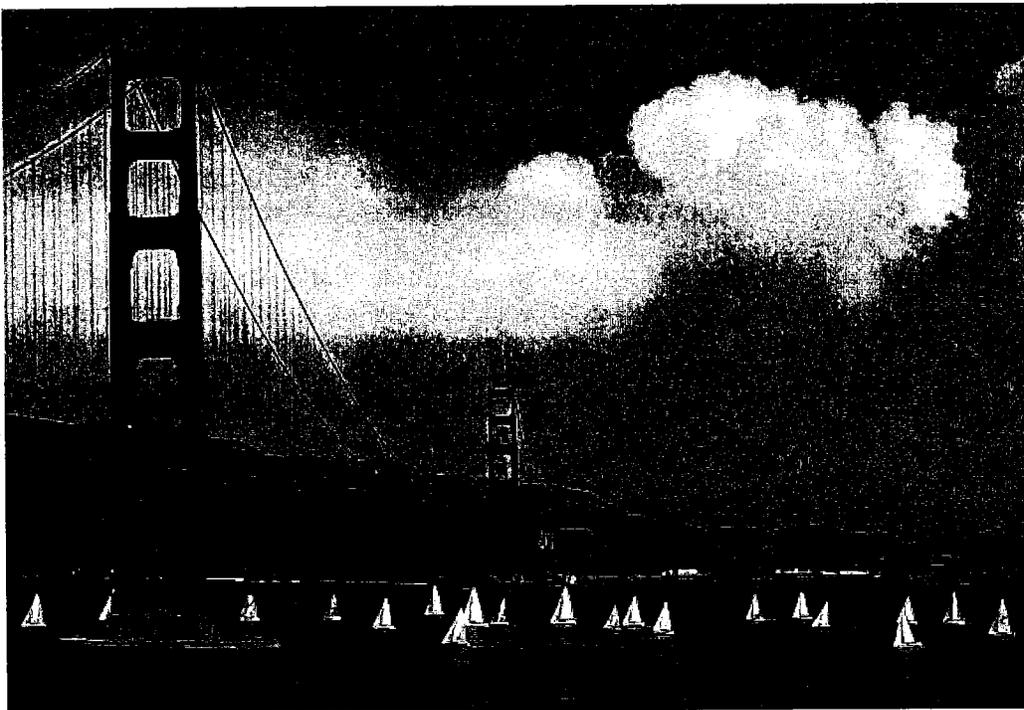




34TH AMERICA'S CUP ANTI-AMBUSH MARKETING ACTION PLAN

For the 2012 and 2013 Regattas
on San Francisco Bay

City and County of San Francisco



January 2012

1. Overview

- a. The 34th America's Cup Host and Venue Agreement (the "Agreement"), signed by the City and County of San Francisco (the "City"), the America's Cup Event Authority (the "Authority"), and the America's Cup Organizing Committee (the "ACOC"), requires the City to develop and submit to the Authority an "Ambush Marketing Action Plan" by March 31, 2011. The title of this plan has been updated to 'Anti-Ambush Marketing Action Plan' to reflect the objectives of this document.
- b. "Ambush Marketing" as described herein is defined as any advertising, communications, commercial identification or other activity undertaken by a person or entity that is in an attempt, whether intentional or unintentional, to imply or create a false or unauthorized commercial association with the 34th America's Cup, ACOC, ACEA, any of the America's Cup official regattas, the America's Cup World Series or any sanctioned event or venue officially associated with the 34th America's Cup. Ambush Marketing includes: a third party's use of creative means to generate a false association with the 34th America's Cup, a third party's infringement of the various laws that protect the use of 34th America's Cup imagery and indicia, and a third party's interference with the legitimate marketing activities of the Event Authority's marketing partners.
- c. The City acknowledges the importance of protecting the rights (including the Intellectual Property Rights) owned by the Authority and those which are licensed or otherwise granted to the Event Sponsors and other Commercial Affiliates by the Authority and stands ready to take all appropriate measures to prevent ambush marketing activities and to preserve the rights of Event Sponsors and other Commercial Affiliates to be associated with the 34th America's Cup.
- d. This Plan is intended to address the intellectual property, sponsorship and other rights owned or licensed by the Authority. Nothing in this Plan is intended to limit the individual free speech rights protected by the United States Constitution.
- e. This Ambush Marketing Action Plan is offered to the Authority in satisfaction of the requirements in Section 10.3 of the Agreement. This Plan is based on the current understanding of the America's Cup event plans that will be refined as those plans are further developed.
- f. The remainder of this Ambush Marketing Action Plan is organized as follows: Host and Venue Agreement Provisions, Existing Legal Basis to Prevent Ambush Marketing, and Ambush Marketing Action Plan.

2. Host and Venue Agreement Provisions

- a. Section 10.3 of the Agreement requires the City and the Committee to work with the Authority to develop and thereafter implement a mutually agreed upon anti-ambush program (the "Ambush Marketing Action Plan"), to the full extent permitted by law, to protect the Event from ambush marketing, to protect from the sale of counterfeit products and to prevent ambush activities both proximate to the Event and

elsewhere in the City and the San Francisco Bay Area. The Ambush Marketing Action Plan identifies the following specific tasks:

- i. the identification of the existing legal basis to prevent ambush marketing;
- ii. if deemed necessary or desirable by the City and the Authority, passing further specific legislation in order to prevent any improper association with the Event;
- iii. the prohibition during the Event and for period of one month before and one week thereafter of any unauthorized public display or advertising (other than those expressly authorized by the Authority) around or near Venue (as described in clause (v) of Section 10.1) areas in the City (and for those Venue areas outside the geographical boundaries of the City, the City will endeavor to include in the applicable Governmental Authority MOU similar ambush marketing prohibitions as allowed by the Governmental Authority exercising authority over that Venue area), as well as along main access roads or in key advertising areas;
- iv. the prohibition of use of Event Airspace during the Event, and in respect of appropriately large perimeters around the airspace of the Venue to prevent any unauthorized aircraft or any other floating or flying device (in particular hot air/helium/other gas balloons or blimps) from being used to advertise or carry out ambush marketing activities;
- v. the prohibition of the use of the Racing Area during the Event for advertising or hospitality uses except as authorized by the Authority;
- vi. the prohibition of street vendors (other than the ones expressly authorized by the Authority) near the Venue or along the main access roads and the linking of concessions granted elsewhere in the City to the express condition that no product unduly seeking to capitalize on the Event shall be sold or promoted whatsoever unless authorized by the Authority;
- vii. ensuring that effective legal action is taken against the vendors of pirate or counterfeit products; and
- viii. generally, the efficient and effective enforcement of any relevant applicable law to prevent ambush marketing activities.

3. Existing Legal Basis to Prevent Ambush Marketing

- a. Signage – Article 6 of the San Francisco Planning Code regulates the time, place and manner of all signage on private property in San Francisco. Unless otherwise amended by the Board of Supervisors, all signage on private property must therefore comply with these citywide provisions. This includes the prevention of new general advertising signs (as defined in Section 602.7) in San Francisco other than those already permitted as of the 2002 passage of Proposition G (Section 611). According to Planning Department inventories, there are 1,672 legal general advertising signs in San Francisco. Posting of illegal advertising or other violations of Article 6 are subject to the enforcement provisions of Section 610.

In addition, Public Works Code Sections 184.56 and 184.78 prohibit signs in the public right of way. The City will work with the Event Authority to post signage and utility pole banners in the right of way through the Department of Public Works, the Recreation and Parks Department, the Port of San Francisco, and the Convention and Visitors Bureau which are exempt from this prohibition.

- b. Temporary Street Closure for Special Event Permitting – The Department of Parking and Traffic (DPT) of the Municipal Transportation Agency is the lead agency in processing and coordinating any requests for a temporary street closure due to an athletic or other special event. Through the Interdepartmental Staff Committee on Traffic and Transportation (ISCOTT)¹, DPT issues special event permits that grant the permittee control of the public areas identified in the permit for the term of the permit. Upon issuance of such a permit to the Authority, the City and the Authority would be authorized to enforce its regulations against any ambush marketing or illegal sales of merchandise that occur within this permitted area during the designated timeframe. The streets designated within the permitted area need not be closed to all traffic. Temporary Street Closures have been used successfully in the past for large special events such as the Major League Baseball All-Star Game.
- c. Vendor Permits – The City intends to enforce its regulations against vendors not licensed to operate within the event perimeter by the Event Authority, in part through the oversight of Temporary Occupancy permitting under the jurisdiction of the Department of Public Works and in conjunction with the designation of the established event perimeter and security boundary determined by the relevant security authorities in agreement with the Authority. Nothing in this Plan is intended to otherwise infringe upon the permitted rights of existing business permit holders on private property.
- d. Distribution of Free Merchandise – Article 5.5 of the Public Works code requires a permit from the Director of Public Works or his designee to distribute free merchandise or free sample goods for the purpose of advertising any merchandise, commodity, property, trade, business, service, art or skill, on any street, sidewalk or public right-of-way in the City and County of San Francisco. In order to protect the sponsorship rights of the Authority and to facilitate the free flow of traffic and spectators, the City will not approve any applications for a permit to distribute free merchandise within the immediate vicinity of the Race Venues unless expressly requested by the Authority. Violation of any of the provisions of this Article is a misdemeanor offense.
- e. Memorandums of Understanding (MOUs) – While all of the Venues listed in the Agreement are located within the City's boundaries, the City recognizes the desire of the Authority to extend these provisions to other race-related locations. The City has initiated discussions with state, federal, and regional bodies with jurisdiction over part of the race or spectator viewing areas to secure other rights called for under the Agreement.

¹ ISCOTT is composed of members from the following agencies: Municipal Transportation Agency, Public Works, Police, Fire, Public Health, and the Port of San Francisco. See San Francisco Transportation Code, Division 1 Article 6 Sections 6.1-6.15

4. Anti-Ambush Marketing Action Plan

To assist in the prevention of Ambush Marketing the City will:

- a. Not cause or engage in any form of Ambush Marketing.
- b. Cooperate with the Authority to prevent Ambush Marketing.
- c. Promptly notify the Authority if the City becomes aware of any suspected Ambush Marketing activities by other parties.
- d. Ensure, to the extent permitted by law, for the duration of the event, that the Event perimeter and any other key advertising locations under the City's control do not carry any form of temporary advertising or promotional material relating to the events, except as approved by the Authority.
- e. To the extent permitted by law, use its permitting and enforcement powers to protect all registered trademarks and copyrights associated with the America's Cup.
- f. Use best efforts to prevent, or to cure/remedy, to the extent permitted by law, the distribution of product samples, premiums, promotional literature and other commercial and non-commercial materials within the established Event perimeter and in and adjacent to the Event Site except where expressly authorized by the Authority.
- g. Work with the United States Coast Guard, the Federal Aviation Administration, the National Park Service, the Golden Gate Bridge Highway and Transportation District, Marin County, and the California Department of Transportation to seek the adoption of similar ambush marketing prohibitions within their jurisdictions and respective discretionary authorities, including in the associated airspace and waterspace described in Section 10.3(b) of the Host and Venue Agreement.
- h. Per Section 10.5 of the Agreement, assure that, for the duration of the Event no major public or private event which could be seen to compete with or have a negative impact on the successful organization, resourcing and staging of AC34, or its public and media exposure, shall take place in the City (it being understood, however, that regular or post-season play by the SF Giants and Fleet Week activities are excluded from this restriction, but such activities shall be coordinated so as not to unreasonably interfere with the Event).
- i. Also per Section 10.5, use reasonable efforts to coordinate with other Governmental Authorities regarding other significant events in the Bay Area to minimize negative impact on the Event.



**CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR**

DISPOSITION AND DEVELOPMENT AGREEMENT

BY AND BETWEEN

**THE CITY AND COUNTY OF SAN FRANCISCO
OPERATING BY AND THROUGH THE
SAN FRANCISCO PORT COMMISSION**

AND

AMERICA'S CUP EVENT AUTHORITY, LLC

34TH AMERICA'S CUP VENUES

**MONIQUE MOYER
EXECUTIVE DIRECTOR**

SAN FRANCISCO PORT COMMISSION

**DOREEN WOO HO, PRESIDENT
KIMBERLY BRANDON, VICE PRESIDENT
FRANCIS X. CROWLEY, COMMISSIONER
LESLIE KATZ, COMMISSIONER
ANN LAZARUS, COMMISSIONER**

[DATE]

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Submitted to Board of Supervisors February 7 2012

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**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 11-79

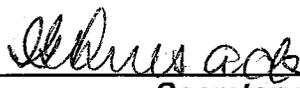
- WHEREAS, The 34th America's Cup Regatta (the "Project") comprises physical improvements, entertainment and spectator programming, and event operations planned for various sites along the San Francisco Bay waterfront on properties under the jurisdiction of the Port Commission, the City and County of San Francisco, and the National Park Service; and
- WHEREAS, On December 15, 2011, the Planning Commission reviewed and considered the Final Environmental Impact Report (Final EIR) in Planning Department File No. 2010.0493E, consisting of the Draft EIR and the Comments and Responses document, and found that the contents of said report and the procedures through which the Final EIR was prepared, publicized and reviewed complied with the provisions of the California Environmental Quality Act (CEQA), the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code and found further that the Final EIR reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the Draft EIR, and certified the completion of said Final EIR in compliance with CEQA and the CEQA Guidelines; and
- WHEREAS, The Port Commission has reviewed and considered the information contained in the Final EIR, all written and oral information provided by the Planning Department, the public, relevant public agencies and the administrative files for the Project and the Final EIR; and
- WHEREAS, The Project and EIR files have been made available for review by the Port Commission and the public, and those files are part of the record before the Port Commission; and
- WHEREAS, The Planning Department, Linda Avery, is the custodian of records, located in Case Number 2010.0493E, and those files are part of the record before this Port Commission; and
- WHEREAS, Port staff has prepared proposed findings, as required by CEQA ("CEQA Findings"), which are attached to this resolution as Attachment A, and a Mitigation Measure and Reporting Program ("MMRP"), which is attached to this resolution as Attachments B-1 to B-3; and

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- WHEREAS, The CEQA Findings and the MMRP were made available to the public and the Port Commission for the Port Commission's review, consideration and action; now therefore, be it
- RESOLVED, The Port Commission has reviewed and considered the Final EIR and adopts the CEQA Findings and MMRP for the Project and incorporates those findings, including the Statement of Overriding Considerations, in this resolution by this reference; and, be it further
- RESOLVED, The Port Commission, in exercising its independent judgment, has relied upon and reviewed the information contained in the CEQA Findings, which describe the Project and Final EIR, and rejects alternatives to the Project for the reasons set forth in the CEQA Findings; and, be it further
- RESOLVED, The Port Commission adopts the CEQA Findings and the MMRP as the required mitigation measures to be implemented as part of the Project, where the Port Commission finds that all of the Mitigation Measures set forth in the Final EIR are feasible, and hereby adopts all Mitigation Measures as described in Attachments B-1 to B-3 in support of the approval of the 34th America's Cup Project, including any other actions necessary to secure BCDC and other regulatory approvals to implement the Project, construction implementation, approval of the Development and Disposition Agreement, form of Venue Lease, and related actions to implement the 34th America's Cup Project, involving use of Piers 26, 28, 30-32, 9, 19, 19½, 23, 27-29, and 29½ and adjacent water areas; water basins between Piers 32 and 38 and Piers 14 and 22½, all located along The Embarcadero waterfront; Seawall Lot 330; and a portion of Pier 80, located along the north side of Islais Creek, east of Illinois Street.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of December 16, 2011.



Secretary

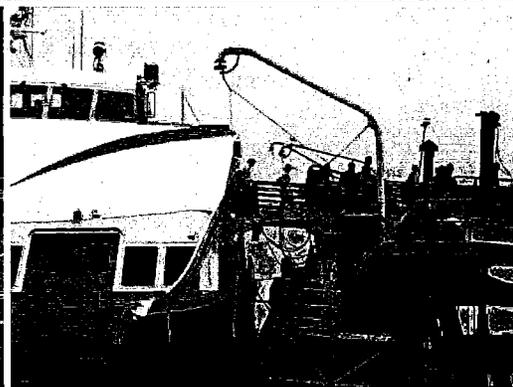
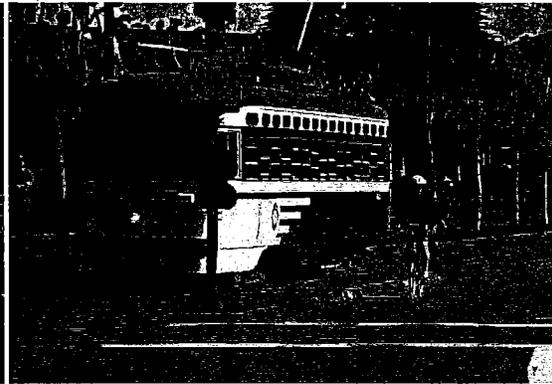
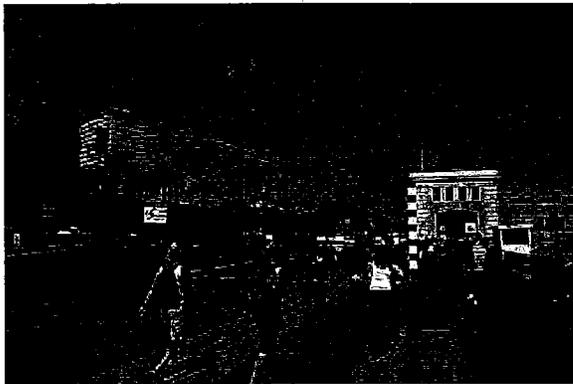


AMERICA'S CUP PEOPLE PLAN

For the 2012 and 2013 regattas
on San Francisco Bay

Submitted to and approved by the America's Cup Event Authority

September 30, 2011



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SECTION 1

Executive Summary

On December 31, 2010, the City and County of San Francisco (the "City") was selected as the host city for the 34th America's Cup and associated sailing regattas. The prospect of staging these races for the first time in close proximity to urban waterfront areas and scenic parklands presents a set of exciting but challenging planning efforts.

One of the most significant efforts will be to identify a package of transportation options to reliably transport racing teams, Event personnel, Event sponsors, members of the media and thousands of America's Cup spectators to and from their desired destinations on any given race day, while at the same time satisfying the daily transportation needs of residents, businesses and visitors not associated with the races. This "People Plan" proposal represents the first step in that process.

The transportation modes described in this People Plan proposal have been structured according to five guiding principles: public safety, resource efficiency, environmental sustainability, strategic adaptability and positive legacy. These principles favor walking, bicycling, and transit over the private automobile, while emphasizing the need for effective communication and information tools that allow large numbers of users to make individual decisions that support the success of the system as a whole. In addition, the legacy concept stimulates interest not only in potential capital projects that can be brought forward in association with the 34th America's Cup preparations, but also operational strategies and other pilot concepts that can provide benefits to the City and the Bay Area long after the 34th America's Cup Finals are complete.

The People Plan reviews likely destinations of race viewers and others associated with the America's Cup Events, in order to better identify the increase in transportation demands to these areas. The Plan then reviews key modes of transportation and the ways in which they can be employed to address the anticipated transportation demands while maintaining current or better transportation levels of service throughout the rest of the City and Bay Area. A general point made in relation to all modes of transport is the need to anticipate and safely resolve conflicts with the large numbers of pedestrians that are expected to be present at the same locations that other travelers are attempting to access.

The People Plan also summarizes a preliminary series of costs estimates of transportation program and projects proposed. These cost estimates serve multiple purposes: to clarify the range of resources that will be needed for transportation agencies to implement the Plan; to guide fundraising, matching and leveraging efforts to support Plan implementation; and to indicate, where, if necessary, trade-offs may be needed when considering all Plan proposals and aspirations. To the extent they inform the complex decisions that lie ahead, the five People Plan

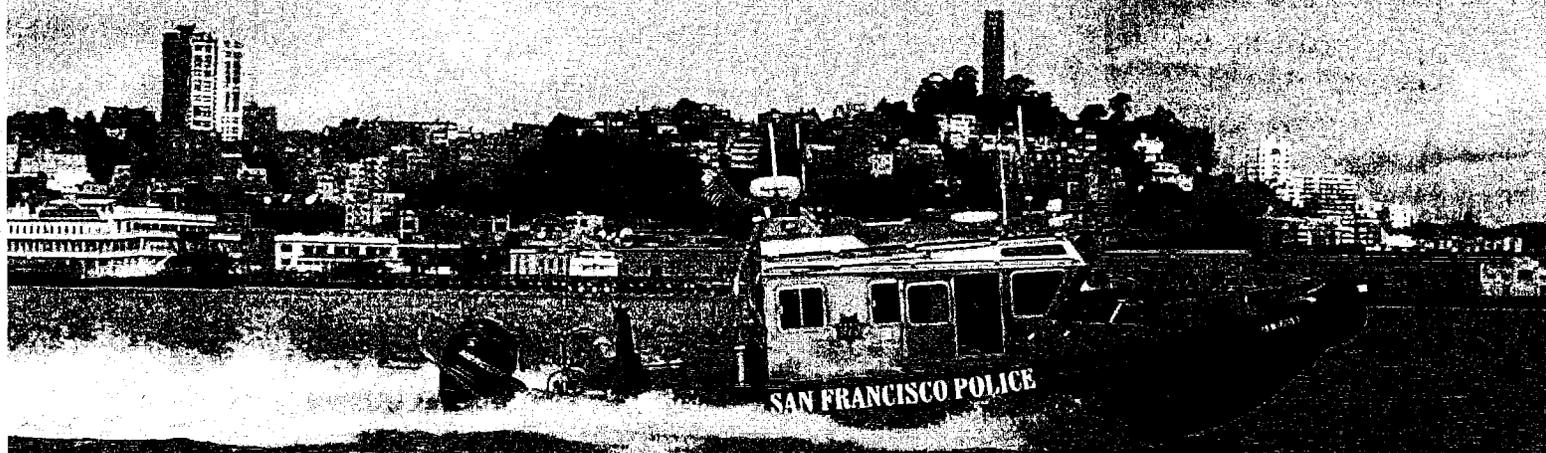
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AMERICA'S CUP

SAN FRANCISCO



OPEN SOURCE VERSION



SECURITY PLAN

September 30, 2011 v.9

Gregory P. Suhr
Chief of Police

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34th AMERICA'S CUP
SUSTAINABILITY PLAN

America's Cup Event Authority

January 30, 2012

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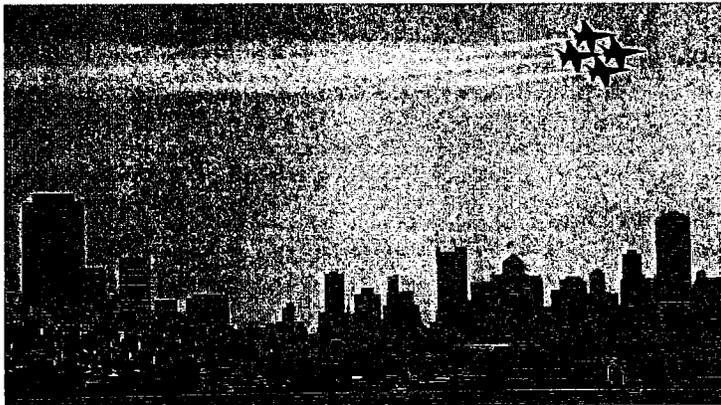
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34TH AMERICA'S CUP WATER AND AIR TRAFFIC PLAN

For the 2012 and 2013 Regattas
on San Francisco Bay

January 2012



WATER AND AIR TRAFFIC PLAN

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34TH AMERICA'S CUP

WORKFORCE DEVELOPMENT AND LOCAL SMALL BUSINESS INCLUSION PLAN

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34th America's Cup Youth Involvement Plan

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SECTION 1

Introduction And Context

1.1 Introduction

The 34th America's Cup ("AC34") Host and Venue Agreement ("Host Agreement"), signed in December 2010, defines the roles and obligations of the City and County of San Francisco ("City"), the America's Cup Event Authority ("Event Authority" or "ACEA"), and the San Francisco America's Cup Organizing Committee ("Committee" or "ACOC"), with respect to the AC34 races and related matters ("Event"), if they occur in San Francisco. For the Event Authority, youth involvement means providing a meaningful opportunity for young people to experience and enjoy the America's Cup Events, while fostering professional and sailing skill development and opportunities to experience the Bay. The Host Agreement calls for an Event that promotes inclusion and opportunities for San Francisco's young people to participate. AC34 aims to take the sport of sailing to a new level, while promoting youth involvement and access to the waterfront, leaving a lasting positive legacy on local communities and the next generation of America's Cup enthusiasts.

Guided by the vision described above, the parties to the Host Agreement have agreed to work together to develop a Youth Involvement Plan for the Event that will set forth the comprehensive strategy for achieving this shared vision. Under the terms of the Host Agreement, this Youth Involvement Plan must be issued no later than the date upon which environmental review of the Project under the California Environmental Quality Act (CEQA) is completed. The AC34 Youth Involvement Plan covers event-related youth involvement activities implemented by various organizations involved in delivering the Event in San Francisco. It will include youth-related opportunities for engagement called for under the Host Agreement between the Event Authority, the Committee, and the City.

Some Event-related programs and activities will be under the direct control of Event delivery organizations, and as such these youth priorities will be designed and executed by Event delivery organizations, such as the Event Authority. In other activity areas, delivery organizations will only have the ability to influence the decisions and activities of partners and stakeholders, but should use this influence to inspire appropriate programs and broad outreach. For example, when an external vendor is hiring new staff to meet the needs of the Event, the Event Authority can try to influence that vendor to hire a young person from San Francisco.

The Youth Involvement Plan is consistent with provisions of other Event implementation plans that address youth and inclusion topics including the People Plan, the Workforce Development Plan, and the Parks Event Operations Plan, among others. All nine implementation plans described in the Host and Venue Agreement were designed to be complementary and include public comment received over the past year in over 100 related community meetings throughout San Francisco and the region or submitted on-

line via email to City and America's Cup Event Authority. A description of all of the AC34 Implementation Plans can be found on the website of the San Francisco Office of Economic and Workforce Development (OEWD) at:
<http://www.oewd.org/media/docs/AC34/AC34%20Implementation%20Plans.pdf>

As Event plans are finalized, through the environmental review and permitting processes or otherwise, it may be necessary to modify strategies to adapt to aspects of the Event that are not fully apparent at present. Like the other implementation plans, once the AC34 Event Youth Involvement Plan is released it is not meant to be static for the remainder of the Events. The lessons learned through the implementation of the Events taking place in 2012 will inform expectations and planning for events in 2013.

1.2 Youth Involvement Plan Development Timeline

Listed below is the development timeline to develop the AC34 Youth Involvement Plan:

- **September – November 2011**
 - Review and develop event-related youth involvement strategies based on technical feasibility and resource availability;
 - Present Draft Framework document to key stakeholders such as the Committee, the City's Department of Children, Youth and their Families (DCYF), the Youth Commission, and others to solicit feedback to be incorporated into the draft plan.
- **December 2011 – January 2012**
 - Draft Youth Involvement Plan released for public comment;
 - Discussions with stakeholders and the public to gather feedback through channels such as the Youth Commission, neighborhood outreach, key community stakeholders. Comments can be made to the Event Authority through mail or e-mail, or in person at meetings.
 - Close of public comment period;
 - Incorporate public comments and rework plan into final form with OEWD, DCYF and others.
 - AC34 Youth Involvement Plan published not later than the date upon which environmental review of the Project under CEQA is completed.

1.3 Context for Youth Involvement Planning

The City and the Event Authority are committed to ensuring that San Francisco's young people have the widest opportunities to learn, gain valuable experience and enjoy their City. Youth involvement requires the creation of meaningful opportunities for young people to engage with the Event, and it is also about promoting awareness for "big picture issues" that young people want to support, such as ocean conservation and environmental stewardship.

1.3.1 AC34 Host and Venue Agreement

The Recitals at the beginning of the Host Agreement include several statements that describe the importance of youth involvement to the success of the Event:

Recital M: The City is committed to ensuring that San Francisco's young people have the widest opportunities to learn, gain valuable experience and enjoy their City. The Authority, the City and the Committee intend that, if San Francisco is selected as host city for AC34, the Event will incorporate and support sailing related programs and activities for the City's children, youth and families. Preceding and during the Event, the Authority will conduct extensive outreach to children, youth, and families, conduct youth sailing courses, and provide event passes to San Francisco's children, youth and families at no cost. The Authority will commit to hiring young people to work at these events or to provide them with an internship. The Authority will create friendly open spaces in which children and youth will engage in various Event related activities. The Authority will create exciting learning spaces in which children, youth and families will have access to experiential and project-based learning related to the Event.

In addition, Section 10.13 of the Host Agreement states, in part:

The Youth Involvement Plan shall set forth the means by which, before and during the Event, the Authority shall: (a) incorporate and support sailing related programs and activities for the City's children, youth, and families; (b) conduct outreach to children, youth, and families through the San Francisco Unified School District and the City's existing programs for children, youth, and families to provide youth sailing courses and Event passes at no cost; (c) commit to hiring and providing internships to young people for the Event; (d) create friendly open spaces in which children and youth will engage in various Event-related activities; and (e) create exciting learning spaces in which children, youth, and families will have access to experiential and project-based learning related to the Event.

1.3.2 Requirement to Prepare a Youth Involvement Plan

Section 10.13 of the Host Agreement states:

Not later than the date upon which environmental review of the Project under CEQA is completed, the Authority, in consultation with the Department of Children, Youth & Families, shall develop a Youth Involvement Plan (the "Youth Involvement Plan").

Thus it is the Authority's responsibility to create a Plan that includes the five areas outlined in Section 10.13 of the Host Agreement, in consultation with the Department of Children, Youth & their Families.

1.4 Youth Involvement Planning Methods

Similar to other large-scale sporting event organizations, the Event Authority is taking into consideration the inclusion of youth involvement and engagement in event planning strategies. The Event Authority has reviewed best practices from previous America's Cup events, as well as recent major event strategies such as those used for the Olympic and Paralympic Games, to create this Youth Involvement Plan.

1.4.3 Measurement, Feedback, and Reporting

The Event Authority plans to adopt the management process model of "Plan, Do, Check, Act" to youth involvement, by dividing the planning process into (1) pre-event planning (identifying issues, strategies and measurement methods), (2) carrying out the strategies intended to meet youth involvement objectives, (3) monitoring and measurement of youth involvement strategies, and (4) review and corrective action to improve youth involvement, during and after the event. In order for this model to be applied as intended, a metric (measurement method) would be identified for material strategies, to evaluate effectiveness. Feedback on effectiveness can be used during the event to improve performance, and at the conclusion of the event, its success rate may be evaluated in a youth involvement report.

SECTION 2

Description of 34th America's Cup

2.1 Introduction

The Events are proposed to take place in the summer and fall of 2013, with two preliminary America's Cup World Series (AC World Series) races taking place from August 11-19 and August 27 - September 2, 2012.

2.2 Project Location and Setting

Whereas past America's Cup races have been held in open ocean waters away from population areas, staging the Event races in San Francisco Bay would enable spectators to view the races from the surrounding shore. The proposed race area within which the races would occur would cover an area generally bounded by the San Francisco waterfront on the west and south, Bay waters north of the Golden Gate Bridge to the north, Alcatraz Island, Angel Island, Treasure Island and Yerba Buena Island on the east, and the Bay Bridge at the south. The race finish for 2013 is proposed in the waters off Piers 27 and 29.

2.3 Major Project Components

The Events may include a full program of exhibits, entertainment, commercial attractions and services to promote an enjoyable spectator experience. The hub of these activities in 2013 would take place in the America's Cup Village. The Event would include licensing for a variety of temporary retail sites to serve visitor retail demand as well as temporary event structures.

2.3.1 The 2012 America's Cup World Series Races

In San Francisco, two AC World Series regattas would occur on August 11-19, and August 27-September 2, 2012. The venue sites for the 2012 races would be limited in number. There would be no permanent installations or construction for the 2012 races; all installations would be removed after the 2012 races, except at Pier 80.

2.3.2 The 2013 America's Cup Challenger Series and Match Races

In 2013, there would be a "Challenger Selection Series" (CSS) to determine the winner of the Louis Vuitton Cup, where the teams compete in several rounds of races, until the winner advances to compete against the Golden Gate Yacht Club (GGYC) team, the Defender, in the 34th America's Cup Match. The Host Agreement provides for possible

“Defender Selection Series” (DSS) races, which GGYC could sponsor, at their option. If such DSS races occurred, they would be scheduled during non-race days or at different hours between the CSS races. Racing would culminate with the Match between the Defender and the winner of the Louis Vuitton Cup, currently planned from September 7th to September 22nd, 2013, drawing the most substantial spectator crowds to the Event.

SECTION 3

Youth Engagement Strategies

3.1 Introduction

For young people living in San Francisco, this Plan operates to identify opportunities to participate in a once-in-a-lifetime sporting event coming to their City and to create meaningful activities and experiences to engage in. This Plan is targeted towards youth between the ages of five and 18 residing in San Francisco with an emphasis on reaching out to youth living economically disadvantaged communities who are considered at-risk and youth with physical limitations.

3.1.1 Development of Planned Engagement

The development of the Draft Youth Involvement Plan involved many discussions with the parties to the Host Agreement and other stakeholders such as the Department of Children, Youth, and their Families (DCYF) and the City’s Recreation and Parks Department (RPD). The Draft Youth Involvement Plan was available for public review and comment until January 6, 2012, and included public meetings to discuss proposed Event youth involvement strategies. The process of engaging with community stakeholders is a critical component of the overall Event management plan. The Event Authority received numerous comments which were reviewed and used to revise and inform this final Youth Involvement Plan.

The Youth Involvement Plan defines the scope of activity in order to provide focus and the ability to achieve objectives within two years. This will involve analysis of feasibility of proposed activities, as well as resource availability combined with innovative partnerships to achieve the Event youth involvement objectives of the delivery organizations.

3.2 Youth Engagement

3.2.1 Engagement Areas

The following engagement areas have been selected for the Youth Involvement Plan, aimed at addressing AC34 Youth opportunities:

- Youth Employment and internships
- Youth Sailing and Community Based Sailing Programs
- Youth and Family Oriented Event access and Programming
- America's Cup Healthy Ocean Project
- Experiential and Project-based Learning Opportunities for Youth

3.2.2 Discussion of Engagement Areas

Below is an overview of the engagement areas with general plans for activation, which are underscored by language from the Host Agreement regarding the applicable commitments.

In each area of engagement there is a section that discusses programs under development. This section is meant to demonstrate in a transparent way, plans currently under development between various youth programs and the Event Authority. In some instances the planning is still preliminary but is being shared to give the community an idea of potential programs that the Event Authority will be working with. These examples are not meant to indicate that an agreement has been reached between the organizations and the Event Authority, nor is it meant to indicate that the Event Authority is no longer considering other programs. Any organization interested in engaging with the Event Authority in AC34 Youth Involvement programs should email youth@americascup.com.

In some instances, planning remains preliminary, however, conceptual plans and program models are being developed at a complementary pace to the overall planning of the Event. These youth programs will continue to be developed and refined over the course of 2012 with plans for implementation starting as soon as possible, but no later than spring 2013, in advance of the Events commencing on July 4, 2013 with the opening ceremony of the Louis Vuitton Cup, the America's Cup Challenger Series.

Youth Employment and Internships

"The Youth Involvement Plan shall set forth the means by which, before and during the Event, the Authority shall ... commit to hiring and providing internships to young people for the Event."

The Event Authority plans to hire youth for event related jobs in the areas of retail sales, event production, information technology support, graphic design, concessions, hospitality, waste management, video production, broadcast production, media operations, entertainment management, park stewardship, construction, and other event related work. These opportunities may be offered starting 2012 and continuing through 2013. Positions will be full-time and part-time, paid and unpaid, depending on the role.

Internships will be available with the Event Authority and will allow youth to gain relevant knowledge, skills, and experience while establishing important connections in the field. Internships with the Event Authority will act as a way for youth to explore whether a specific field is the right fit for a particular skillset or a potential career path. These positions will be offered through the America's Cup website

(www.americascup.com/connect) and may involve partnerships with Community Benefit Organizations and the City. Various partner organizations may provide job training and skill development workshops for youth in preparation for their position with the Event Authority. Internships and opportunities to work for school credit will also be made available and preference will be given to youth living in San Francisco.

Social Enterprise Engagement

The Event Authority is committed to ensuring that a diverse array of San Francisco businesses and residents have the opportunity to benefit from the job creation and local economic growth that will result from the Event. This commitment includes opportunities for youth. Engaging "social enterprises" in the development and delivery of goods and services for the Event will be key to creating jobs for unemployed San Francisco residents and at-risk youth, while at the same time strengthening and sustaining San Francisco's critical community-based organization infrastructure.

Social Enterprises are non-profit businesses that create jobs for youth and adults with barriers to employment by creating a service or product needed in the local market.

Potential opportunities for social enterprises that benefit youth include: concessions and food sales and catering services; marketing and promotion; recycling and other cleaning/environmental activities; merchandizing and retail product sales; and others.

With its partners at OEWD and DCYF, the Event Authority will work to identify social enterprises that train and employ San Francisco residents (both youth and adults), as well as deliver services or create products needed for the Event activities. The Event Authority will promote the use of social enterprise non-profits in purchasing, contracting, and/or subcontracting with the ACEA, sponsors, racing teams, and other stakeholders. In an effort to track and monitor success of this program, the Event Authority will publicize and promote jobs created within social enterprises by the Event activities in the local community. In addition the Event Authority will engage community organizations across the City in creating a pipeline of San Francisco residents for these jobs from all of San Francisco's diverse neighborhoods. A commitment to social enterprise will help the Event Authority deliver on its promise to support the local resident hiring goals and efforts already underway in San Francisco highlighted in the AC Workforce Development and Local Small Business Inclusion Plan.

Programs Under Development

The Event Authority is working with REDF and JUMA Ventures to identify opportunities for social enterprises that support youth to be involved with Event in the areas of concession stand sales and recycling and other cleaning/environmental activities. JUMA Ventures has had great success in working with the concession operators at AT&T Park during San Francisco Giants baseball games and at other sports arenas and events around the Bay Area. JUMA would like to build on its success and expand to offer youth employment opportunities at Event concession stands at the AC Village and other Event venues. Once venue plans have been set, the number of concession stands will be

apparent and a staffing plan will be created. When that information is known, the number of youth jobs will be estimated and included in a revised version of this plan.

The Event Authority plans to open a retail store in San Francisco in 2012 to sell branded AC34 merchandise and is working with Enterprise for High School Students (EHSS) to build off of their existing customer service programs to train San Francisco's high school-aged youth for retail sales positions. EHSS helps youth discover career opportunities and cultivate their individual interests through training, guidance, and employment experiences in a diverse and supportive learning environment.

EHSS has 2 programs, This Way Ahead (TWA) and Pathways, where students are taught customer service skills. TWA is a job readiness and career exploration program developed in conjunction with Gap Inc. Students receive 14 weeks of job readiness training, including expert customer service training from Gap and Old Navy store managers. Upon completion of the training, students are eligible to apply for a 4 month paid retail sales internship. This year 160 students applied to TWA and 63 were selected to participate in the training. Because Gap accepts approximately 25 interns per year, it leaves 25-30 program graduates who are looking for part-time retail opportunities. In addition to the TWA program, EHSS's Pathways Program trains close to 250 students per year in a 10-week job readiness training program that also includes skill-based workshops. One of the options for the skill-based workshops is the Customer Service Workshop. EHSS staff teaches this workshop during the school year while the summer workshops are facilitated by Banana Republic store managers. Students who have completed these workshops have been hired by Aeropostale, Timbuk2, Old Navy, and dozens of small businesses in San Francisco.

The Event Authority plans to offer paid retail sales internships for students who have completed these programs and will work with EHSS staff to give AC34 specific training to students during the program. The number of paid internships will be determined once the store location is set and staffing plans have been developed. The program in 2012 will act as a pilot for the program in 2013. Students interested in applying to EHSS for the TWA program or the Pathways Program, can email youth@americascup.com. To learn more about EHSS's programs please visit <http://www.ehss.org/programs>.

The Event Authority recognizes that several schools within San Francisco offer degree programs which fit directly with Event Authority's Event-related needs. These programs include, but are not limited to, San Francisco State University's Recreation, Parks, and Tourism program and Electronic Media program, and City College of San Francisco's Travel and Tourism program. The Event Authority is working with each of these programs to identify opportunities to offer volunteer, internship and employment opportunities to students interested in working with AC34. Areas of opportunities include: event planning and management, eco-parks stewardship and environmental educators, hospitality assistants, television production assistants, and concierge service/ event ambassadors of San Francisco.

The utilization of technology and media are key to the success of the Event. Because of this, the Event Authority plans to partner with BAYCAT and Conscious Youth Media Crew to assist in the production of various media focused programming and to create meaningful internships and job shadowing in the areas of media, television production, journalism, branding, marketing and graphic design.

The Event Authority is also exploring opportunities for internships or a job-shadowing program in the fields of construction, catering and foodservice, law enforcement, conservation, maritime, marine biology, and general office work with various partners such as Mayor's Youth Employment and Education Program (MYEEP), the Police Activities League (PAL), the Crissy Field Center, the Conservation Corps, California Academy of Sciences, Architectural Foundation of San Francisco, and others.

Youth Sailing and Community Based Sailing Programs

“The Youth Involvement Plan shall set forth the means by which, before and during the Event, the Authority shall ... incorporate and support sailing related programs and activities for the City’s children, youth, and families” and “conduct outreach to children, youth, and families through the San Francisco Unified School District and the City’s existing programs for children, youth, and families to provide youth sailing courses and Event passes at no cost.”

Creating access to the waterfront for San Francisco youth is a priority objective for the Event Authority. Through partnerships with sailing providers, such as the Treasure Island Sailing Center, Sailing Education Adventures, San Francisco State University, the San Francisco Sea Scout Program and SF Maritime at Aquatic Park, the Event Authority will offer opportunities to access free and reduced price sailing courses for San Francisco’s youth and their families. More information about these opportunities will be published through the America’s Cup website. The youth sailing program will be promoted through the America’s Cup website and through outreach to the San Francisco Unified School District as well as outreach to afterschool programs, community centers, and community benefit organizations (CBOs). Anyone interested in receiving more information about these programs should email youth@americascup.com.

Programs Under Development

The Event Authority plans to create an online database to highlight the various existing youth sailing programs in the Bay Area. This will be conducted in cooperation with local sailing organizations such as the Bay Area Association of Disabled Sailors, SailSFBay, and other community and yacht club based sailing groups throughout San Francisco and the Bay Area.

Learning to sail on the San Francisco Bay can be difficult due to high winds, tides, and other variable conditions. Therefore it is key to partner with organizations that currently teach successful beginning sailing programs to youth in San Francisco. The Event Authority is working with the City of San Francisco’s Recreation and Parks Department, Treasure Island Sailing Center, Call of the Sea, Sailing Education Adventures, San Francisco State University, the San Francisco Sea Scout Program and the SF Maritime National Historic Park at Aquatic Park to build a comprehensive program that teaches swimming, sailing and science to San Francisco youth. A pilot program may begin as early as spring 2012 with the intention for the full program to be operational during the 2012-2013 school year. This program will be an in-depth opportunity for groups such as

school field trips, after school programs and youth groups to experience the America's Cup Youth Sailing program.

This program will consist of teaching swimming, boater safety, beginning sailing, the science behind sailing, engineering, physics, marine biology, ocean and bay awareness, and more. Once students conclude their on the water experience, their group leaders (teachers, parents, or counselors) will have the opportunity to continue the program through online teaching tools, age specific curriculum, and follow-up opportunities such as an in-class visit by AC sailors, hosting a school assembly, or participating in essay or art contests.

During the summer of 2013, the Event Authority will also offer free sailing opportunities for San Francisco's youth. But due to the anticipated high demand during the summer event months, this program will be less in-depth than the America's Cup Youth Sailing program happening during the school year. The summer program is intended to get youth out on the San Francisco bay in high volume and to grow youth interest in sailing and aquatic activities. Once youth experience being on the water, they will have an increased appreciation of what it takes to be a world-class sailor and greater understanding of sailing while watching the AC34 events.

In addition to the sailing providers above, the Event Authority plans to work with various marine science organizations such as the Marine Science Institute, Romberg Tiburon Center, the Exploratorium, the Aquarium of the Bay, Farallones Marine Sanctuary Association, and the Marine Mammal Center to develop and incorporate curriculum that links sailing with science in a fun and creative way.

Youth and Family Focused Event Access

"The Youth Involvement Plan shall set forth the means by which, before and during the Event, the Authority shall ... **conduct outreach to children, youth, and families through the San Francisco Unified School District and the City's existing programs for children, youth, and families to provide youth sailing courses and Event passes at no cost.**"

Programs Under Development

The Event Authority plans to offer access to Events at no cost for youth and their families. This may include access to the AC Village, as well as other event sites throughout San Francisco. A detailed map showing areas with free access for youth will be available on the America's Cup website prior to the Event.

As Event information becomes available, the Event Authority will conduct outreach to the San Francisco Unified School District (SFUSD) through administrators, parents, teachers, and to youth directly about free access to the events and where and how to obtain more information. The City's Youth Commission and DCYF's CAC will be engaged early on in the process to vet the communication style of the outreach, to confirm that it is youth appropriate and youth oriented. Anyone interested in receiving this information can email youth@americascup.com to be added to the mailing list.

Youth and Family Focused Programming

"The Youth Involvement Plan shall set forth the means by which, before and during the Event, the Authority shall ... **create friendly open spaces in which children and youth will engage in various Event-related activities.**"

As AC34 event plans are developed, specific youth oriented and family programming will be a priority. This may include interactive or educational displays, family friendly music or entertainment, or an area in which kids and their families can play, have fun, and experience the Event. Specific venue locations and concepts are currently undergoing environmental review and subsequent to this process, event specific plans for friendly open spaces for youth will evolve into fully realized concepts.

In 2011, the Event Authority worked with the Architectural Foundation of San Francisco (AFSF) to assist in AFSF's annual design competition for high school students. The theme of 2011 was the America's Cup Youth Village, where students competed to create the best concept for the village. Event Authority staff helped to judge the competition and two winning students were offered summer internships in graphic design with the Event Authority. The competition gave Event Authority staff great ideas for youth oriented spaces and programming for the AC34 events and all of the ideas were suggested by San Francisco youth.

America's Cup Healthy Ocean Project

Driven by its commitment to have the 34th America's Cup be "more than a sport," the Event Authority has set an ambitious goal with the AC Healthy Ocean Project to develop the world's largest communication outreach program focused on improving ocean health. To accomplish this goal, the Event Authority has partnered with some of the leading voices in the ocean conservation field, including Dr. Sylvia Earle and her Mission Blue organization, OceanElders, Sailors for the Sea, One World One Ocean, Aquarium of the Bay and the International Union for Conservation of Nature (IUCN).

In addition to the international partners, the Event Authority is working with a consortium of Bay Area ocean and Bay health-related organizations that have come together to partner with the AC Healthy Ocean Project to focus on opportunities within San Francisco Bay that will continue to showcase the Bay Area's leadership in these issues. San Francisco Bay-based partners include the Aquarium of the Bay, the Marine Mammal Center, Mission Blue, National Marine Sanctuaries, NOAA, Sailors for the Sea, Monterey Bay Aquarium, and Save the Bay.

Programs Under Development

Many of these partners already have youth oriented programs such as Sailors for the Sea's Rainy Day Kits, or the Marine Mammal Center's Washed Ashore exhibit. In addition, other partners have started to develop new programs that touch on a variety of key issues, such as educating youth on problems facing our Bay and Ocean or teaching

youth science and biology through interactive mobile learning experiences. The Event Authority plans to leverage their partnerships and utilize these programs and commitments of its partners to grow the reach and bolster the Youth Involvement Plan.

At the AC World Series in San Diego in November 2011, many San Francisco based partners were able to display interactive learning exhibits at the AC Village. These partners included the Exploratorium, the Marine Mammal Center and Sailors for the Sea, among others. For many of the programs it was a pilot or test-run to see what level of interest there may be to do larger interactive exhibits in San Francisco for the AC World Series in 2012 and Events in 2013. The Event Authority is currently gathering feedback from the San Diego program participants and plans to use that feedback in planning for youth science programming in San Francisco.

Experiential and Project-based Learning Opportunities for Youth

“The Youth Involvement Plan shall set forth the means by which, before and during the Event, the Authority shall ... **create exciting learning spaces in which children, youth, and families will have access to experiential and project-based learning related to the Event.**”

Programs Under Development

Leading up to 2013, the Event Authority plans to develop various places for residents and visitors to interact with and experience the America's Cup. One of these venues would be dedicated to the America's Cup experience called “Flying on Water.” This experience is a sailboat racing simulator, that allows the audience to experience a simulation, through video, sound, wind and water, what it actually feels like to sail in the America's Cup. This simulator currently is traveling around the world in the AC World Series and there are plans in development to bring it to San Francisco. This simulator would be free to San Francisco youth and available during typical business hours and on weekends for San Franciscans and visitors alike. The Event Authority plans to find a home for this exhibit in San Francisco soon.

Another venue to experience the America's Cup in San Francisco would be through the potential America's Cup Adventure. Early stage plans are underway to create an academy where members of the public can pay to participate in a sailing academy where sailing techniques are taught by former and current America's Cup level sailors, and participants will be able to set sail on former America's Cup boats on the San Francisco Bay. While these plans are still in early stages, any opportunity to experience the Academy would be on a limited basis. However, specific inventory would be allotted for free youth participation and would be offered to youth, classrooms, and after school programs as a reward for programs and contests that the Event Authority would conduct in San Francisco over the next two years. Such contests could include environmental stewardship in the community, beach or community cleanup programs, advancement in science or other curriculum areas, and art or essay competitions.

SECTION 4

Existing Programs and Opportunities for Partnership

4.1 Existing Programs

4.1.1 Methodology behind approach to program partnerships

Through this Youth Involvement Plan the Event Authority aspires to support and bolster existing programs that promote youth activities in San Francisco and the greater Bay Area. The Event Authority plans to use the Events as a mechanism to expose San Francisco's youth to programs that currently exist in the City of San Francisco and in particular, those programs that will continue to exist after the completion of Event in 2013. Due to the limited duration of the 34th America's Cup, the Event Authority wants to leverage elements of successful existing programs as opposed to reinventing new programs for the youth involvement program.

Through this planning effort with DCYF and the City of San Francisco, the Event Authority plans to create a comprehensive youth involvement program that is made up of elements from various existing youth programs. The interrelationships between these programs have yet to be fully formulated, however, initial plans have shown positive results.

4.1.2 Programs With Aligned Mission and Programming

The City's Department of Children Youth and their Families (DCYF) currently sponsors 178 agencies who run 458 programs in early childcare and education, out of school time, youth leadership, empowerment, development, violence prevention and intervention, child nutrition, and family resource in San Francisco. These are a mix of school and community-based afterschool programs, teen, and youth workforce development programs. Many of these have limited relevance to America's Cup programming; however, they do provide a forum for which comprehensive citywide outreach could be conducted. Many of these agencies could help with targeted outreach to young people throughout the City. Of the DCYF sponsored programs in San Francisco, several have emerged as having a strong nexus between their mission and the mission of the America's Cup Youth Involvement Program. In addition, there are other programs outside of the City sponsorship arena that could also provide natural connections to the America's Cup Youth Involvement Plan. The Event Authority will continue to meet with potential program partners throughout 2012 and any programs interested in participating should email youth@americascup.com.

SECTION 5

Public Input

Community input is very important to the Event Authority and will act to strengthen this effort through participation from stakeholders with experience and familiarity in youth programming. The Youth Involvement Plan will remain a living document and will be updated as new partnering opportunities emerge, as we learn from future AC World Series events, and as event planning progresses.



** Complete copy of document is located in

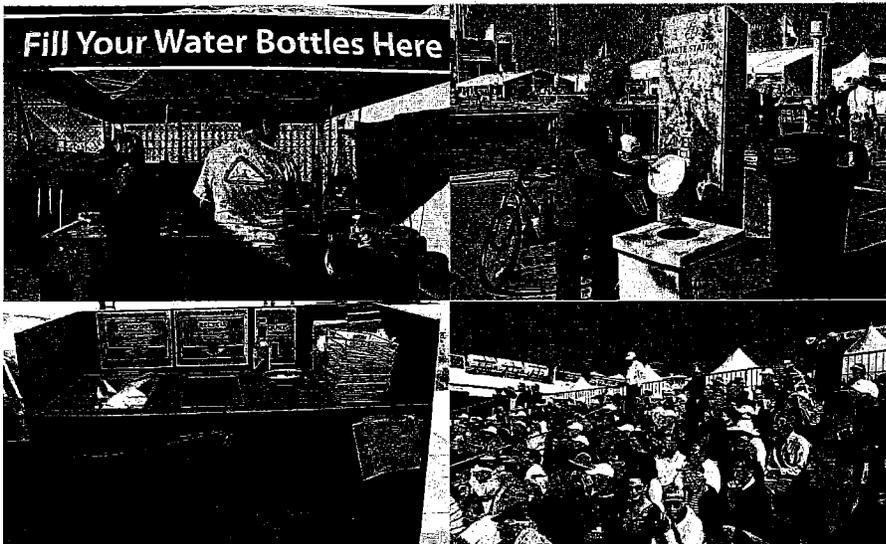
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34TH AMERICA'S CUP ZERO WASTE PLAN

For the 2012 and 2013 Regattas
on San Francisco Bay

Prepared for the San Francisco Department of the Environment

December 2011



ZERO WASTE PLAN

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** Complete copy of document is
located in

File No. 120127

MEMORANDUM

February 9, 2012

TO: MEMBERS, PORT COMMISSION
Hon. Doreen Woo Ho, President
Hon. Kimberly Brandon, Vice President
Hon. Francis X. Crowley
Hon. Leslie Katz
Hon. Ann Lazarus

FROM: Monique Moyer
Executive Director

SUBJECT: Informational memorandum regarding the Development and Disposition Agreement and related actions approved by the Port Commission on December 16, 2011 to implement the 34th America's Cup Project, involving use of Piers 26, 28, 30-32, 19-23, 27-29, and 29½ and adjacent water areas; water basins between Piers 32 and 38, Piers 14 and 22½, and Pier 9 apron and water area, all located along The Embarcadero waterfront; Seawall Lot 330; and a portion of Pier 80, located along the north side of Islais Creek, east of Illinois Street.

DIRECTOR'S RECOMMENDATION: Informational Only; No Action Required

OVERVIEW

The purpose of this memorandum is to provide the Port Commission and the public a written update on the business terms of the Development and Disposition Agreement ("DDA") between the Port and the America's Cup Event Authority for the 34th America's Cup Match and related activities (the "Event" or "AC34"), as presented in the December 10, 2011 Memorandum to the Port Commission and orally presented by staff at the December 16, 2011 Port Commission meeting. Attached are copies of the slides presented by staff at the December 16, 2011 Port Commission meeting. Additionally this memorandum includes a summary of the business terms of the DDA as adopted by the Port Commission and an updated analysis of these terms.

Separately, the Port Commission will consider the proposed AC34 Venue Leases in February, 2012, and will consider any further modifications to the DDA at a future Port Commission meeting, if necessary.

THIS PRINT COVERS CALENDAR ITEM NO. 10A

BACKGROUND

Previous Port Commission staff reports and other City reports provide important background information about the City's endorsement of the Host and Venue Agreement (the "HVA") between the Authority, the City, and the America's Cup Organizing Committee (the "ACOC"), the proposed uses of Event Venues, both on and off of Port property, and related planning efforts, including the following:

- **Port Commission Approval of the HVA:** For information regarding the Port Commission's resolution endorsing the HVA, please see Port Commission Agenda Item 5A on the November 30, 2010 Agenda¹.
- **Board of Supervisors Approval of the HVA:** For analyses of hosting the 34th America's Cup by the Controller, the San Francisco Board of Supervisors ("Board of Supervisors") Budget Analyst, the Office of Economic and Workforce Development and the Port, please see the full Board of Supervisors Agenda for December 14, 2010².
- **HVA:** A copy of the HVA as finally approved on December 31, 2010³ and a description of the changes made to the HVA between approval by the San Francisco Board of Supervisors on December 14, 2010 and final execution on December 31, 2010⁴ may be found on the website for the City's Office of Economic and Workforce Development.
- **Port-Controller Memorandum of Understanding to Reimburse Lost Rent:** For information regarding the Port Commission's resolution approving an agreement between the Controller and the Port to reimburse the Port for rent loss due to hosting the 34th America's Cup and for race related costs, please see Port Commission Agenda Item 9A on the February 8, 2011 Agenda⁵.
- **Proposed Uses of AC34 Venue Sites and Description of Required Project Approvals:** For information regarding the proposed uses of AC34 Venues sites, both on and off Port property, and for details regarding project approvals by the City and County of San Francisco and other state and federal agencies, please see Port Commission Agenda Item 9C on the November 15, 2011 Agenda⁶.

¹ <http://www.sfport.com/Modules/ShowDocument.aspx?documentid=308>

² http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/bosagendas/materials/bag121410_101259.pdf

³ http://www.oewd.org/media/docs/AC34/12.31_docs/HOST_CITY_AGREEMENT_FULLY_EXECUTED_12.31.10.pdf

⁴ http://www.oewd.org/media/docs/AC34/12.31_docs/AC34_Overview_of_Changes_to_the_Host_City_Agreement.pdf

⁵ <http://www.sfport.com/Modules/ShowDocument.aspx?documentid=666>

⁶ <http://www.sfport.com/modules/showdocument.aspx?documentid=2482>

- **California Environmental Quality Act (“CEQA”):** For copies of Environmental Planning’s CEQA Case No. 2010.0493E The 34th America’s Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza, including the Notice of Preparation, Draft Environmental Impact Report (“EIR”) and Final EIR⁷, please see the Department of City Planning’s Environmental Planning website. A copy of these documents is included in Port Commission files associated with Resolution 11-79.
- **Other Planning Documents:** For copies of other Event-related planning documents, including the People Plan (related to transportation planning), the Zero Waste Plan, the Parks Event Operations Plan, the Water and Air Traffic Plan, the Advertising Plan, the Ambush Marketing Plan, and the forthcoming Youth Involvement Plan and Workforce Development Plan, please see the website for the City’s Office of Economic and Workforce Development⁸. A copy of these documents is included in Port Commission files associated with Resolution 11-80.

DEVELOPMENT AND DISPOSITION AGREEMENT (“DDA”)

Key purposes of the DDA are to: (1) set forth the obligations of the Authority to improve Port property for the Event, (2) govern Port review and approval of scopes of work for both pre-Match and deferred improvement to Port property performed by the Authority (each, a “Scope of Work”), (3) govern the conditions for delivery of the Venues to the Authority, and (4) set forth the means to reimburse the Authority for its improvements on Port property.

The DDA provides the Authority with more certainty as to its rights and obligations that will support its further investment in the design, construction documents and approval process for the Project and to finalize the Project financing. The DDA protects the Port because the Port: (1) is not obligated to deliver the Venue Leases and Venue Licenses unless and until the conditions in the DDA are met, (2) regulates the construction and design process, and (3) defines the sources of repayment to reimburse the Authority for the actual cost of improvements. After the Authority completes construction of the improvements described in the Scopes of Work approved in accordance with the DDA, the Port will issue a Certificate of Completion, which upon recordation will terminate the DDA, but not the Port’s reimbursement obligation or indemnification obligations of either party.

The Port Commission approved the DDA on December 16, 2011. This approval was required because the DDA concerns a major development on Port property and sets forth requirements for delivering the Venue Leases and Venue Licenses, and the means by which the City and Port are obligated to reimburse the Authority for its improvements on Port property. Board of Supervisors approval is required because the DDA amends the HVA by replacing sections 5, 6, 7, and 15 of the HVA, the sections addressing Venue Leases, Authority and Port infrastructure work for the Event, long-term

⁷ <http://www.sf-planning.org/index.aspx?page=1828>

⁸ <http://sfgov.org/site/frame.asp?u=http://www.oewd.org>

development rights of the Authority, and indemnity. The final DDA will include a Memorandum of Understanding between the City and the Authority providing for a cost-sharing of obligations pursuant to the Mitigation Monitoring and Reporting Program pursuant to the Final EIR. Board of Supervisor review and approval is currently anticipated for February 2012. The Board of Supervisors upheld the certification of the Final Environmental Report on January 24, 2012.

Infrastructure Work

The DDA includes obligations for both parties to perform improvements to Port property. Port infrastructure obligations are:

- to cause the demolition and removal of Pier 36 by January 1, 2013;
- to complete the Brannan Street Wharf no later than June 30, 2013;
- to complete Phase I of the James R. Herman Cruise Terminal building by March 1, 2013; and
- to relocate Pier 27 shoreside power facilities to a location near the new Pier 27 cruise terminal building.

In addition, staff of the San Francisco Bay Conservation and Development Commission (BCDC) have recommended that the Port be required to remove Pier ½ by March 1, 2013, as a condition to approval of a proposed amendment to the *Special Area Plan for the San Francisco Waterfront*. That commission will act on the proposed amendment in March 2012 and, if the amendment is approved, the Port will undertake the pier removal.

The DDA calls for Port delivery of a substantially complete Pier 27 cruise terminal building to the Authority by a Venue License by March 1, 2013 for the 2013 AC34 events. The Port will have a limited right to use Pier 27 to berth cruise ships between March 1 and May 31, 2013 when Pier 27 is not being used for the Event with the Authority's consent, given in its sole discretion. The Authority's right to exclusive use of Pier 27 will end one month after the final America's Cup Match, on October 21, 2013.

Authority work falls into several categories: (1) Pre-Match Authority Infrastructure Work (AIW), (2) Deferred AIW, (3) Deferred Additional Work, (4) Spectator Vessel Dredging Work, and (5) all other work, as shown in Table 1 below.

Table 1: Description of Authority Infrastructure Work and Additional Work

Authority Work	Description
Pre-Match Authority Infrastructure Work	<p>Pre-Match AIW is all pre-Match work performed on Port property by the Authority for Event purposes, except Spectator Vessel Dredging Work. Pre-Match AIW is subject to reimbursement through certain long-term development rights described below.</p> <p>Required AIW projects are:</p> <ul style="list-style-type: none"> • All Piers 30-32 work required to stage the Event; • Pier 29 end wall construction and substructure repairs (note: the Port has elected to undertake demolition of Pier 27 and a portion of Pier 29 as part of the Pier 27 Cruise Terminal Project);⁹ • Payment of up to \$2 million for relocation of shoreside power; • Compliance with Regulatory Conditions of Approval (i.e., conditions placed by BCDC and other permitting agencies related to Pre-Match AIW); and • Compliance with MMRP mitigation measures assigned to the Authority to mitigate its activities on Port Venues. <p>With the Port's approval as to Scope of Work, the Authority also may choose to make pre-Match improvements to prepare Port property for the Event, which will be subject to reimbursement and included in AIW. Elective AIW may include:</p> <ul style="list-style-type: none"> • Dredging and pier improvements to accommodate the regattas (e.g., dredging for the 72' catamarans racing in 2013 ("AC72s")); and • Pre-Match improvements and repairs to Port Venues, which may include Piers 26 and 28.
Deferred Authority Infrastructure Work	<p>Deferred AIW consists of work at Piers 30-32 not performed pre-Match. Deferred AIW may be deferred for up to 10 years after the Venue Lease for Piers 30-32 expires. Deferred AIW is subject to reimbursement through the formula described in the section <u>Sources of Reimbursement for Authority Improvements: Balancing Formula</u>.</p>

⁹ See discussion of Pier 27 work in the venue section below.

Authority Work	Description
Deferred Additional Work	Deferred Additional Work consists of post-Match work at Piers 26 and 28, which may be constructed at any time up to 10 years after expiration of the Venue Lease for Pier 26 or Pier 28, as applicable. Deferred Additional Work is subject to reimbursement as described in the section <u>Sources of Reimbursement for Authority Improvements: Balancing Formula</u> .
Spectator Vessel Dredging Work	Spectator Vessel Dredging Work consists of dredging to accommodate spectator vessels but not for AC45 or AC72 catamarans. The Authority's costs of Spectator Vessel Dredging Work may be applied to offset rent at marina leases at locations on the conditions described in the section <u>Sources of Reimbursement for Authority Improvements: Balancing Formula</u> .
All Other Work	The Authority may also undertake other work it deems necessary for the Event at its own expense, subject to the Port's Scope of Work approval.

Venues

The DDA provides for both short-term Venues for use during AC34, and long-term development sites, which may include short-term Venues. The Venues consist of Piers 26, 28, 30-32 and Seawall Lot 330, Piers 19-23, Pier 27, Pier 29, Pier 29½, Brannan Street Wharf, Pier 80, Pier 9 apron and water area¹⁰, Pier 14 North and South water areas, and the water area between Pier 32 and the northern edge of the Pier 38 premises (the "Brannan Street Wharf Open Water Basin"). Venues are available for exclusive use¹¹ by the Authority during AC34 except for Brannan Street Wharf, Pier 27¹², and portions of Pier 80. Specific provisions for Venues, including long-term development rights, are outlined below.

Piers 30-32: Piers 30-32 is the site of the most extensive infrastructure work. Subject to completing \$55 million of Pre-Match Authority Infrastructure Work, the Authority has a right to a rent-free 66-year lease of Piers 30-32 after expiration of the related Venue Lease, subject to approval of a Public Trust-consistent use program by the Port and the California State Lands Commission, and fee title to Seawall Lot 330 as described below. The other terms of the future

¹⁰ Subject to renegotiation or modification of existing tenancies.

¹¹ The Authority agrees to accommodate public trust uses, which will allow fishing boats to fish in water areas of Venues during herring season (December through March).

¹² For the Brannan Street Wharf and Pier 27, public access requirements and bond financing indentures limit the Port's ability to grant exclusive use of these facilities.

development agreement and lease for Piers 30-32, including uses, will be subject to agreement by the parties.

The Authority will be reimbursed for Authority Infrastructure Work above \$55 million (Investment Value) by long-term development rights and financing mechanisms described in the section Sources of Reimbursement for Authority Improvements: Balancing Formula below. Long-term development is subject to subsequent project-specific CEQA analysis. Now that CEQA review for the AC34 Event is complete, the Port and the Authority will consider entering into a long-term DDA and a long-term lease for Piers 30-32, known as a Legacy Lease. The Authority will be required to include a maritime use in its public trust-consistent long-term development project.

During the Venue Lease term, the Port will have limited use of the east berth of Piers 30-32 as a tertiary berth for cruise vessels with the Authority's consent, in its sole discretion.

Seawall Lot 330: Seawall Lot 330 will be transferred to the Authority through a transfer agreement ("Transfer Agreement") subject to approval by the Port Commission and the Board of Supervisors provided that it has either performed Pre-Match Authority Infrastructure Work equal to or greater than the appraised value of Seawall Lot 330 (appraised at \$24 million on July 1, 2011 through a process prescribed by the HVA), or provided adequate security for its completion of the work. Adequate security may include a guaranty by an entity with sufficient net worth to assure that the requisite Authority Infrastructure Work is completed. Future development of the site will be subject to project-specific CEQA analysis and other City approvals, and final approval action by the California State Lands Commission pursuant to AB 418¹³, but no further Port Commission approval. The DDA states the Port's intention to seek Board of Supervisors approval of the Transfer Agreement concurrent with its approval of the IFD and to close transfer of Seawall Lot 330 by September 30, 2012. Prior to approval of the transfer agreement, AB 418 requires the Port to identify (but not necessarily acquire) 2 acres of land that can be impressed with the public trust, subject to approval of the State Lands Commission.

¹³ Assembly Bill 418 (Assemblymember Ammiano) lifted the Public Trust from Seawall Lot 330 and authorized the State Lands Commission to approve a transfer in fee to the Authority if: (a) the Authority completes Pre-Match Authority Infrastructure Work at least equal to the parcel's appraised value (\$24 million); (b) the transfer is complete by September 2012; and (c) the Match is held by December 31, 2013. The bill also addresses the failure to satisfy the conditions to the transfer.

Piers 26 and 28: The Authority may obtain long-term leases at Piers 26 and 28 at a starting rental rate of \$6 per gross building square foot at any time until 10 years after expiration of the Venue Lease for the applicable pier (each, a "Legacy Option Lease"), if it elects to perform Deferred Additional Work at either or both sites.

Piers 27-29 Pier 27 is not a long-term development site under the DDA. Pier 29 (or another mutually agreed pier) may become a long-term development site with rent starting at \$6 per gross building square foot, as escalated by increases in CPI, if needed to repay Authority Infrastructure Work (see also Investment Value below).

To keep the Cruise Terminal project on schedule and meet the Port's delivery date for Pier 27, the DDA provides that the Port will undertake the demolition work described in Table 1 above. The cost of the work will be the Port's responsibility and is part of the Cruise Terminal Phase I project budget.

Because Pier 27 is to be the site of the main America's Cup Village for the 2013 Events, the Authority has asked for assurances that the Port will meet its March 1, 2013 delivery date. The Port has agreed to engage a third party consultant to perform a "stress test" of the feasibility of the Port's Phase 1 cruise terminal construction schedule and to provide regular construction progress reports to the Authority. The expense of the third party consultant is funded through the Port's cruise terminal project Phase 1 budget.

If construction falls behind, the Port must provide to the Authority a plan for meeting the schedule (such as extra work shifts), and the City and the Port will work with the Authority to identify appropriate spaces (which may include the remainder of Pier 27) in which to hold special events and, if necessary, to house the planned America's Cup Village. If the Port does not have funds available to fund its "speed-up" plan, the Authority can elect to fund the measures upon approval of the Port's plan, and any costs so incurred would be included in its Pre-Match Authority Infrastructure Work costs, subject to same reimbursement mechanisms for Authority Infrastructure Work.

The DDA has an attached schedule of delivery dates for each Venue. If the Port does not deliver certain important Venues such as Pier 27 by the delivery dates, the Authority may terminate the DDA. The Port will deliver Venues free of tenants, except as previously agreed. The Port will retain the lease for Red's Java House unless the Authority elects to assume the lease. If the Port cannot deliver any Venue free of tenants, the Authority can elect to accept the Venue with an assignment of the Port's rights, including the right to evict any remaining tenants. The Port also must deliver a

policy of title insurance for Piers 30-32, Seawall Lot 330, and Piers 26 and 28 (if the Authority performs Deferred Additional Work).

If material deterioration in the physical condition of a Venue occurs before its delivery date, the Port must identify functionally equivalent space for the Authority's approval as soon as reasonably practicable, but in no event more than 30 days after the deteriorated conditions are known. If the Authority rejects two successive proffers of functionally equivalent space, either party may terminate the DDA as to that Venue.

The Authority has the right to use the Venues if it defends the America's Cup and selects San Francisco to host the 35th America's Cup events, and the parties agree on the terms of a new host and venue agreement. The parties each will have the right to terminate negotiations if they do not agree upon the new host and venue agreement for a successive defense of the America's Cup within 6 months after the Match, subject to additional analysis pursuant to CEQA.

Force Majeure and Time Extensions

The time limits in the DDA, including the deadlines for delivery of Port Venues to the Authority, are subject to extension of up to two years for force majeure, which are major events outside the control of either party. If any Venue is not delivered by the "Outside Delivery Date" that is two years after its scheduled delivery date, the Authority may terminate the DDA as to that Venue, and either party may terminate if a force majeure event, such as litigation, extends the Outside Delivery Dates for the Venues by more than two years.

If the DDA is terminated before the Event on a no-fault basis under the DDA, and the Authority has expended substantial sums up to or exceeding \$55 million preparing for the Match, the Authority will have recourse solely to the following forms of repayment from the Port for amounts expended plus 11% interest, after application of any insurance proceeds (including disaster funding from the Federal Emergency Management Agency), and only to the extent available: (1) an interim lease of 10 years or longer (if permitted by law) of Piers 30-32 as a parking lot; (2) a long-term right to develop Piers 30-32, subject to project-specific CEQA analysis and Port Commission approval of the proposed development, with a rent starting at \$4 per square foot, escalated periodically, and rent credits for any additional required substructure work; and (3) if needed, a share of IFD proceeds from any future development of Piers 30-32, even if the Authority does not hold the development rights.

The Authority has a separate right to extend the Match by up to 12 months for any reason under the HVA.

Approval of Scopes of Work

The Port has the right to approve all Scopes of Work related to infrastructure proposed by the Authority. The DDA allows the Authority to perform the types of infrastructure work described in Table 1 above, and provides a process for Port review and approval of Scopes of Work and amendments and revisions to Scopes of Work from time to time, in accordance with its customarily reserved rights as a landlord reviewing tenant proposals for capital improvements. Typically, the Port's review in its capacity as landlord will include: (i) benefit to the Public Trust; (ii) compliance with project requirements, including City and Port laws and policies, mitigation measures, and regulatory approvals; (iii) restrictions imposed by applicable laws regarding the uses of public assets and legal prohibition against gifts of public funds.

Regarding both the proposed pre-Match seismic upgrade and any planned seismic upgrade of Piers 30-32 for development after the Match, at the December 16, 2011 Port Commission meeting, the Port conditionally approved the Authority's proposed Scope of Work provided that:

- Prior to finalizing its construction plans, the Authority will perform a non-linear time history seismic analysis of Piers 30-32 with peer review by the Port's 3rd party engineer. The Port's 3rd party engineer must concur that the upgrade meets but does not substantially exceed code requirements, with final determinations regarding code compliance made by the Port's Chief Harbor Engineer.
- If the Federal Emergency Management Agency (FEMA) has mapped Piers 30-32 as a high hazard flood risk, prior to submitting construction drawings for a future upgrade of Piers 30-32, the Authority must obtain FEMA remapping of Piers 30-32 to permit mixed use development.
- The Authority must obtain other regulatory approvals required for the proposed seismic upgrades developed pursuant to the analyses described above, and the Port's Chief Harbor Engineer must determine that the proposed seismic upgrade for the proposed use meets but does not substantially exceed the Port's Building Code requirements.

The complete description of work approved by the Port Commission is included in Attachment C.

Assignment/Transfer

- Venue Leases and Licenses will allow the Authority to assign its interests to affiliates, and to sublease Venues to affiliates, competitors and commercial partners;
- The Authority is prohibited from transferring any interest in a Venue or making a significant change in the composition and control of the Authority before it has

completed the Pre-Match Authority Infrastructure Work to be performed on that Venue, except as noted above, unless the Port Commission authorizes the change; and

- The Authority may assign its long-term development rights under the DDA to a nominee subject to Port approval.

Terminating Events

Certain events may give either or both of the parties termination rights under the DDA. Most significantly, the DDA will terminate:

- in its entirety if the HVA terminates or the Authority assigns or transfers its rights under the DDA without Port consent (when required) and does not cure the default within 30 days; or
- as to a particular Venue if the Port does not deliver the Venue by the Outside Delivery Date, or in its entirety if the City fails to approve the SWL 330 Transfer Agreement; or
- in its entirety at the Authority's option if the Port cannot deliver a key Venue such as Pier 27 when required.

Sources of Reimbursement for Authority Improvements: Balancing Formula

Under the DDA, the Port will implement a number of financing processes to finance its obligation to reimburse the Authority for its "Investment Value" - the Authority Infrastructure Work above \$55 million¹⁴ - and for Deferred Additional Work and reimbursable Spectator Vessel Dredging Work. These financing mechanisms include:

- The Port will form an Infrastructure Financing District ("IFD") on all of its property, with separate project areas for Pier 26, Pier 28, Piers 30-32, and Seawall Lot 330. Through the IFD, the Port will be able to issue bonds secured by the incremental tax revenues from the America's Cup IFD project areas to reimburse the Authority a portion of its infrastructure costs.
- The Port will provide rent credits for the amount of the Authority's Investment Value that is not repaid by other means. Rent credits will be allocated to specific leases and accrue at the rate of 11% interest per year against base rents specified in the DDA. Specific details about the application of rent credits to the Authority's long-term leases are provided below.
- The Port will allow the Authority to obtain the benefit of historic tax credits for qualified work at Piers 26 and 28.

¹⁴ Authority investment of \$55 million is repaid through a rent-free lease of Piers 30-32 for 66 years and transfer of fee title to Seawall Lot 330.

- The Port has an option to pay for (or “buy-out”) all reimbursable work (Authority Infrastructure Work, Deferred Additional Work, and Spectator Vessel Dredging Work) in excess of \$55 million, provided the Port makes an election within 180 days after the Authority has entered into a Guaranteed Maximum Price (“GMP”) contract for particular Scope of Work, and pays the Authority its reimburseable costs, with 11% interest annually, within 5 years.

Investment Value

Under the DDA, the Authority’s Investment Value will be calculated as follows:

$$\begin{aligned}
 \text{Investment Value} = & \text{Pre-Match Authority Infrastructure Work Costs} \\
 & + \text{Deferred Authority Infrastructure Work Costs} \\
 & - \$55 \text{ million (repaid by Seawall Lot 330 and Piers 30-32)} \\
 & - \text{Any amounts repaid through Port’s buy-out option}
 \end{aligned}$$

Investment Value will be determined incrementally as each Scope of Work is completed and project costs are determined by a certified audit process. If needed, the Port will provide the Authority with rent credits (“Balancing Rent Credits”) in the amount of Investment Value. Once established, Investment Value will only be reduced through “balancing” – the application of the sources described below – and by costs the Port must incur to complete Authority Infrastructure Work that does not comply with Scope of Work specifications.

The Port will balance Investment Value derived from Pre-Match Authority Infrastructure Work and Deferred Authority Infrastructure Work above \$55 million exclusively by the application of the following sources in the following order of priority:

- IFD Bond proceeds from Piers 30-32 and Seawall Lot 330.
- Balancing Rent Credits applied to interim leases (up to 10 years) of Pier 26 and Pier 28 against base rent starting at the Port’s then current parameter rent for shed warehouse space, with other terms (including rent escalation) comparable to the Port’s current form of lease.
- Balancing Rent Credits applied to an interim leases (up to 10 years) of Pier 29 against base rent starting at the Port’s then current parameter rent for shed warehouse space, with other terms (including rent escalation) comparable to the Port’s current form of lease.
- Balancing Rent Credits applied to a 66-year lease of Pier 29 (or another pier by agreement) against base rent starting at \$6 per square foot, escalated to the commencement date of the lease, with other terms to be negotiated and presented to the Port Commission and the Board for endorsement and approval, if appropriate, following CEQA review. Rents return to market rate upon the later of 30 years from the lease commencement date or exhaustion of all rent credits.

- An assignment of no more than 50 percent of the Port's rental revenues from a proprietary Port lease of Piers 30-32 subsequent to the termination of the Legacy Lease of Piers 30-32, effective for a period not to exceed 15 years after the commencement date of the subsequent lease, during which period interest will continue to accrue at 11% annually.

Deferred Additional Work

The Port will reimburse the Authority for Deferred Additional Work exclusively by the application of the following sources:

- Rent credits in the amount of the Deferred Additional Work that the Authority may apply to a 66-year lease of Piers 26 and 28 ("Legacy Option Leases") against base rent starting at \$6 per square foot, with other terms to be negotiated and presented to the Port Commission and the Board for endorsement and approval, if appropriate, following CEQA review. Rents return to market rate upon the later of 30 years from the lease commencement date or exhaustion of all rent credits.
- IFD Bond proceeds from Piers 26 and 28.
- Proceeds from the sale of historic rehabilitation tax credits.
- Rent credits applied to marina leases on commercially reasonable terms, at the Authority's election.
- An assignment of no more than 50 percent of the Port's rental revenues from proprietary Port leases of Pier 26 and Pier 28 subsequent to the termination of the applicable Legacy Option Lease, effective for a period not to exceed 15 years after the commencement dates of the respective subsequent leases, during which period interest will continue to accrue at 11% annually; subject to the Port's right to substitute a different financing mechanism to rehabilitate historic resources if it can identify a source of financing with a current value equal to or greater than the current value of the rent assignment.

Dredging

If the Authority performs Spectator Vessel Dredging Work at Pier 14, Pier 9 or in the Brannan Street Open Water Basin, the Port will enter into exclusive negotiation agreements under which the parties will negotiate commercially reasonable terms of one or two marina leases at Pier 54 and in the Brannan Street Open Water Basin or another marina site acceptable to both parties. After the Authority obtains all final, binding, and non-appealable regulatory approvals required for the marina leases, the Port will provide marina rent credits in the amount of the dredging work cost, which the Authority may apply exclusively to marina leases or leases at Piers 26 and 28, as described below.

Financial Reports

The Authority must provide the following financial reports:

- The parties must establish the Authority's reimbursable pre-development costs within 60 days after the effective date of the DDA;
- Within 90 days after completion of improvements within a Scope of Work, the Authority will submit a certified statement of construction costs; and
- The Authority will submit quarterly financial reports on Investment Value, project costs incurred, and available rent credits.

Rent Credits/Long-Term Rights

The DDA provides for the following mechanisms regarding rent credits and long-term development rights:

- The quarterly financial reports will include a running tally of available rent credits at any one time;
- Unused rent credits will accrue interest at a rate of 11% annually, and be applied at the beginning of each applicable lease year against base rent for that lease year;
- The Port will transfer Seawall Lot 330 to the Authority subject to conditions of AB 418, and subject to a right of termination if the Match does not occur by December 31, 2013 unless that date is extended with the agreement of the California State Lands Commission;
- The Port will deliver long-term leases and development agreements on terms negotiated by the parties for Piers 30-32 and, if the Authority performs Deferred Additional Work on Piers 26 and Pier 28;
- The long-term leases will begin only after the Venue Leases have expired and the Authority has obtained all necessary permits and Port and Board of Supervisors approvals and completed CEQA review, subject to the Authority's ability to return said Venues to the Port for up to 10 years after the Match;
- The Legacy Lease and Legacy Option Leases are assignable to Authority affiliates without Port consent, and to others with the Port's reasonable approval;
- The Port will not charge participation rent on long-term leases;
- The Port will not charge rent during the construction period;

- Base rent for long-term leases during any period of rent credits is set at the following:
 - \$4 per sf for Piers 30-32;
 - \$6 per sf for Piers 26 and 28; and
 - As indicated above, \$6 per sf for Pier 29, if it becomes a long-term lease to repay Investment Value, escalated from the effective date of the DDA to the commencement date of the lease;
- For Piers 26, 28 and 29, rents return to market rate in the year after all rent credits have been applied (but no earlier than year 30 of the term), and thereafter rents are periodically reset to market every subsequent 10th year during the term;
- Base rent will be adjusted every 5 years, except on market reset dates, by the consumer price index ("CPI") with a floor of 10% and a ceiling of 20%; and
- The Authority may transfer its rent credits by lease assignment.

Interim Uses

The DDA makes the following provisions for leasing of Venues that will be subject to long-term leases:

- The Authority may retain exclusive use of Piers 30-32, Pier 26, and Pier 28 for up to 10 years for interim uses;
- If the Authority retains Piers 30-32, annual base rent will be set at \$910,225.16¹⁵ adjusted annually by CPI beginning in 2012 (which is the amount the Port earned in calendar year 2010);
- If the Authority retains Pier 26 and Pier 28, base rent will be at the Port's then-effective parameter rental rate for pier warehouse sheds beginning upon the interim lease date¹⁶;
- If the Authority has rent credits accruing from Pre-Match Authority Infrastructure Work, rent credits may offset interim base rent for any leases at Piers 26, 28 and 29 that the Port grants under the DDA;

¹⁵ The DDA does not provide the Authority with the ability to claim rent credits against the rent from the interim lease of Piers 30-32.

¹⁶ Interim lease rates for Piers 26, 28, and 29 differ from long-term lease rates if the sites are leased for 66 years.

- If the Authority retains Pier 29 for interim use, base rent will be at the Port's then-effective parameter rental rate for pier warehouse sheds beginning upon the interim lease date¹⁵;
- The Authority may instead deliver Venues back to Port for up to 10 years before entering into long-term leases; and
- The Authority must elect to interim lease or return venues to the Port immediately after the Match to provide the Port with 6 months' notice to give the Port the opportunity to begin re-leasing the returned Venues.

Marina Leases

The DDA provides the following mechanism to reimburse dredging performed to accommodate spectator vessels:

- The Port will enter into an exclusive negotiating agreement for one or more "Marina Leases" at Pier 54 and the Brannan Street Open Water Basin, or other locations agreed by the parties, in consideration for the Authority's Spectator Vessel Dredging Work.
- The Authority may apply the rent credits for any substructure improvements at Pier 54 solely to a 66 year lease for an approximately 425-berth marina serving recreational vessels at Pier 54. To allow for expiration of any existing interim Port leases at that site, a Pier 54 lease would start no sooner than 5 years after the Match and no later than 10 years. The Authority's rent credits and right to the Pier 54 lease will expire if the Authority has not entered into the exclusive negotiation agreement within 5 years after the Match, or closed escrow on the lease within 10 years after the Match.
- The Authority may apply rent credits for the cost of Spectator Vessel Dredging Work to rent owed the Port from the marina leases.
- Any marina lease would be a commercially-reasonable lease of up to a 66 years conditioned on receiving approvals from the Port and all its regulatory partners.
- The resulting marina rent credits will not be considered balancing rent credits but would be transferable among the Legacy Option Leases at Piers 26 and 28.

Attachment B of this memorandum contains a summary of additional DDA terms, including provisions related to construction activities, casualty and risk of loss, dispute resolution, and the creation of community facilities districts.

SCOPE OF WORK APPROVAL

The Authority has prepared a proposed Scope of Work for waterfront improvements for consideration by the Port, pursuant to Section 6.6 of the HVA. The Port's Engineering

Division hired an independent engineering firm, Winzler and Kelley, to review major plans and make recommendations to Port staff. Table 2 below contains cost estimates and notes regarding the proposed work.

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Table 2: Pre-Match Authority Infrastructure Work and Additional Work

Proposed Work	Estimate	Notes
Pre-Match Authority Infrastructure Work		Constructed in 2012
Piers 30-32 Upgrades including partial seismic upgrade	50,000,000	Event Authority cost estimate including 42 seismic piles and seismic joint. Final seismic design will be resolved through linear time-history analysis, peer reviewed by Port engineering consultant.
Construction Contingency at 10%	5,000,000	Event Authority cost estimate
Soft Costs (incl. development) at 8%	4,400,000	Event Authority cost estimate
Subtotal Piers 30-32	\$59,400,000	
Remaining Pre-Match Authority Infrastructure Work		
Pier 29 End Wall	850,000	Event Authority estimate - excludes Pier 27-29 demolition
BCDC Costs (Pier 19 south apron repair, Pier 64 removal, Pier 23 handrail, shed/fill removal at other locations TBD)	5,200,000	Event Authority cost estimate
Piers 32-36 Dredge Costs	2,500,000	Port consultant estimate (Boudreau & Assoc.). Port scope of work approval includes mechanism to reduce this dredge area if not needed for Event.
Pier 27 Shoreside Power Relocation	2,000,000	Host and Venue Agreement Section 6.2
Pier 29 Substructure	1,000,000	Event Authority cost estimate
Mitigation (LTMS, USACE)	700,000	Event Authority cost estimate
Subtotal Remaining Pre-Match Authority Infrastructure Work	\$12,250,000	
General Contractor's Fee, Bonds, Design & Estimating Cont., General Conditions	1,837,500	15%
Subtotal	14,087,500	
Construction Contingency at 10%	1,408,750	
Subtotal	15,496,250	
Soft Costs (incl. development) at 8%	610,000	Excludes design costs for Pier 19 apron. Port had engineering plans for this work. Also excludes design costs for relocating shore power.
Total Pre-Match Authority Infrastructure Work	\$75,506,250	
Pre-Match Additional Work		Dredged in 2012
Dredging at Pier 9, Piers 14 North and South, Pier 28 South, and Portions of Piers 32-38 Basin	3,700,000	Event Authority cost estimate
Subtotal Pre-Match Additional Work	3,700,000	
Total Pre-Match Authority Infrastructure Work & Pre-Match Additional Work	\$79,206,250	

Attachment C contains the Scope of Work Approval recommended by Port staff to the Port Commission.

At its December 16, 2012 meeting, Port staff recommended that the Port Commission authorize Port staff to approve a Scope of Work of Pre-Match Authority Infrastructure Work with a cost not to exceed \$75 million and approve dredging described above as Additional Work (for a total projected cost of \$79.2 million), subject to the following conditions:

Authority Infrastructure Work

- The Port will undertake the demolition of the Pier 27 shed and a portion of the Pier 29 shed, along with the Pier 27 Administration Building (previously proposed to be conducted by the Authority), to facilitate coordination with cruise terminal construction and site staging;
- Structural work for Piers 30-32 is approved, except as noted, subject to finalization of a Stormwater Control Plan for the site that is acceptable to the San Francisco Bay Regional Water Quality Control Board ("Water Board");
- The Port conditionally approves the Pre-Match partial seismic upgrade of Piers 30-32 subject to completion of a non-linear response history (time-history) analysis using past earthquake events as suggested by the BCDC Engineering Criteria Review Board, which will be peer reviewed by an engineering consultant selected by the Port;
- Pier 29 substructure improvements and Pier 29 end wall construction consistent with Secretary of the Interior's Standards for Treatment of Historic Properties and related Port policies, and Pier 27 stormwater improvements (subject to approval by the Water Board) are approved;
- Improvements related to BCDC requirements are approved, including removal of Pier 64 with a replacement nesting platform, repair of the Pier 19 apron, and installation of a handrail on Pier 23;
- Other regulatory requirements related to construction on Port property, as well as soft costs, are conditionally approved, subject to submittal of detailed costs and review and approval by Port staff; and
- Dredging for AC72 catamarans between Piers 32-38 is conditionally approved, subject to the following requirements:
 - Approval by the Dredged Materials Management Office;
 - The Authority shall use reasonable efforts to limit the proposed dredge to serve the number of AC72 catamarans that will actually be competing (and thus require mooring locations);

- To the extent that fewer mooring locations are required, the Event Authority will reduce the proposed dredge area by moving the southern boundary of the dredge to the north, first eliminating the portion of the proposed dredge under the former footprint of Pier 36;
- The Port will coordinate with the Authority to request that America's Cup Race Management survey the competing teams prior to the proposed dredge to determine minimum dredge depth requirements; and
- The Port will provide final approval to the Event Authority of the remainder of this proposed dredge no later than June 1, 2012.

Additional Work

- Dredging at Pier 9 South, Pier 14 North and South, Pier 28 South, and the portion of Piers 32-38 required for large spectator vessels is approved, pending final approval by the Dredged Materials Management Office.

Post-Match Work

The parties jointly have begun to assess the costs of the work required to complete future seismic upgrades to Piers 30-32. No such seismic design has been engineered and seismic modeling of the future upgrade will be required based on future construction plans. However, the range of seismic piles that may be required is estimated at 90-120 six foot steel piles. Assuming a 20% cost contingency, and 4% annual construction cost inflation, the Port estimates the potential cost of this future seismic upgrade at \$32.1 million.

Together with planned investments pre-Match, this cost would bring the total investments for which the Authority is either seeking or will seek reimbursement to \$111.3 million. This excludes any future work for Piers 26 and 28 which was estimated at \$25 million in the HVA.

Based on the Port's review of the proposed Scope of Work and associated cost estimates, including review by the Port's third-party engineering consultants of key elements, the Port finds that the Event Authority has met the requirements of HVA Section 6.5 to identify a minimum scope of work for the Authority Infrastructure Work with an estimated cost of \$55 million to be constructed before the Match.

FINANCIAL ANALYSIS

The benefits and costs of hosting the 34th America's Cup on the Port are best analyzed in two categories: the short-term race related impacts, and the long term development impacts.

Short-term Event Related Benefits

Hosting the Event in San Francisco will generate significant public benefits for the City, generating an enormous number of jobs and economic activity in a very short period of time. In order to understand the potential economic impact, the City commissioned a detailed analysis of the potential economic benefits of hosting the Event in San Francisco¹⁷ (the "Economic Impact Report").

The Economic Impact Report estimated that the Event would attract approximately 3 million local visitor days and over 600,000 visitor days from outside the region. The Event is expected to generate the equivalent of 8,840 jobs and more than \$1.4 billion of new economic activity for the region. Based on that level of visitation, the Event is expected to generate nearly \$85 million in local and state taxes and more than \$24 million to the City's General Fund. Changes in visitation levels would result in corresponding changes to tax receipts and employment. The Budget Analyst's report dated December 13, 2010 estimated that the Event would generate \$19.5 million in additional tax revenues, including Hotel, Payroll, Parking and Sales Tax revenues, which would accrue directly to the City's treasury.

Port staff analyzed the Event's potential effects on Port revenues, as described in the staff report for Port Commission Agenda Item 5A on the November 30, 2010 Agenda¹⁸. Port retail and maritime tenants are expected to realize most of the expected benefits of the Event. Though the Port does not collect participation rents from most maritime tenants, the increased demand for their services will help the overall health of maritime industries and the demand for Port properties. The Port will experience increased percentage rents from excursion operators as well as Port restaurants, retail stores and parking lots. Port staff anticipates increased percentage rents of approximately \$1.0 million during racing.

Short-Term Event Related Costs

Short-term race related costs include lost rent, incremental costs, and capital obligations.

Lost Rent

As described above, the HVA affords the Authority rent free use of a number of Port facilities during the event. As a result of the Memorandum of Understanding (MOU) between the Port and the City Controller, executed on March 22, 2011, the City will

¹⁷ A detailed analysis of the potential economic benefits of hosting the Event in San Francisco, "America's Cup: Economic Impacts of a Match on San Francisco Bay" was completed jointly by the Bay Area Council Economic Institute and Beacon Economics and issued in September 2010, which can be found at:

http://www.bayeconfor.org/media/files/pdf/San_Francisco_America_Cup_Economic_Impact_Report.pdf

¹⁸ <http://www.sfport.com/Modules/ShowDocument.aspx?documentid=308>

reimburse the Port for lost rent during the Event. The reimbursement process described in the MOU provides the Port with a "Payment in Lieu of Rent"¹⁹ which is intended to neutralize any potential effect of the 34th America's Cup on the Port's rental revenues through early 2014 (6 months after the Match). The MOU does not reimburse the Port for lost rent revenues which are associated with the Authority's long term development rights discussed below. Using the current rent rolls and the timeframes for Event Venue related use specified in the DDA, Port staff's best estimate of rent loss during the period of the Event is \$6.4 million (shown on Table 3 below).²⁰

Table 3: Estimated Payment In-Lieu of Rent

	FY 11/12	FY 12/13	FY 13/14	Total
Lost Gross Rent	837,254	3,971,763	3,538,341	8,347,358
- Rent From Relocated Tenants	55,621	475,611	407,303	938,535
- Increased Percentage Rents	0	76,391	949,143	1,025,534
= Payment In Lieu of Rent	781,633	3,419,761	2,181,895	6,383,289

Notably, the total lost gross rent is offset during the period by any rents received from tenants who relocate to other Port property (estimated at \$1.0 million based on prior experience in tenant relocation as well as available space), and further offset by the \$1.0 million in anticipated increase in percentage rents resulting from the America's Cup.

Other Costs

In addition to lost rent, the Port estimates that it is incurring incremental costs due to the 34th America's Cup of \$1.46 million for temporary staffing positions, security, and other work²¹, and approximately \$1.1 million for tenant relocation, settlement, and litigation expenses between FY 2011/12 and FY 2013/14, for a total of \$2.56 million. The Port requested these funds from the America's Cup project budget which is anticipated to be supported with private funds raised by the America's Cup Organizing Committee (ACOC) to the extent such funds are available. The ACOC has pledged to raise \$32 million to offset City expenses, \$12 million by the end of 2011, and \$10 million in each following year. During budget deliberations in February of 2012 for the FY 2012/13 and FY 2013/14 budgets, Port staff will update the Port Commission on the availability of ACOC funds to reimburse Port project costs.

¹⁹ Terms in quotations indicate terms defined in the MOU.

²⁰ Total Payments in Lieu of Rent were previously estimated at \$6.7 million in February of 2011. The reduction to \$6.4 million is largely due to rescheduling the delivery of Port facilities to later dates.

²¹ Other work includes temporary parklet improvements along The Embarcadero in 2013, environmental monitoring and media services.

Port Capital Costs

As discussed above, the HVA obligates the Port to perform "Port Work", including demolition of Pier 36, construction of the Brannan Street Wharf, construction of core and shell of the Cruise Terminal, and the relocation of Pier 27 shoreside power. Port staff has previously reported to the Port Commission, the Capital Planning Committee and the Board of Supervisors the costs associated with these major projects, and will continue to provide project budget updates.

The Port requirement to remove Pier ½, a red-tagged, pile supported parking lot to the north of the Ferry Building, arises from the proposed BCDC amendment to the *Special Area Plan for the San Francisco Waterfront* to permit the temporary use of the four Port/BCDC Open Water Basins for berthing of spectator vessels and mooring of racing yachts. The proposed amendment is scheduled for a vote on March 1, 2012.

The Port agreed to assume the responsibility of the proposed Pier ½ removal, because this BCDC public benefit accelerates an existing BCDC requirement to remove Pier ½ concurrent with construction of Phase II of the Downtown Ferry Terminal, currently being planned by the Water Emergency Transit Authority. Port engineers estimate the cost of Pier ½ removal at \$1.2 million. As previously planned, the Port intends to seek Proposition K ½ cent sales tax funding to fund this fill removal project.

In addition, pursuant to the Final Environmental Impact Report ("EIR") for the 34th America's Cup and the James R. Herman Cruise Terminal and Northeast Wharf Plaza projects, the Port is required to implement a Pier 70 shoreside power project as an upgrade to Drydock #2 to offset emissions for decommissioning shore power at Pier 27 and other AC34 emissions.

Drydock #2 is currently under lease to BAE San Francisco Ship Repair, Inc. ("BAE"). The Port currently projects that the cost of this project will be \$5.7 million (including \$600,000 for PCB transformer disposal), which will result in annual debt service payments of \$676,000 for ten years. Subject to approval of lease amendment terms with BAE, the Port will charge BAE a \$0.04 per kWh equipment charge to repay the project and the San Francisco Public Utilities Commission will contribute an incentive payment of \$1.5 million based on system performance. Port staff conservatively projects that these sources will support 75 percent of the Pier 70 shoreside power project costs.

Authority Capital Costs to Improve Port Property That Will Remain Under Port Control

HVA Section 6.2 requires the Authority to undertake demolition of the Pier 27 shed and portions of Pier 29, as well as making a contribution to the relocation of shore power at Pier 27 equal to the lesser of relocation costs or \$2 million. During Board of Supervisors deliberations regarding the Host and Venue Agreement in 2010, Port staff previously estimated the combined costs of Pier 27 demolition and relocating shore power at \$7.5 million.

The Port Commission approved Port staff's recommendation to assume the costs of demolishing the Pier 27 shed in order to facilitate the construction timeline for the James R. Herman Cruise Terminal. Through the DDA negotiation and permitting for AC34, the Authority has agreed to assume the following costs associated with sites that will not be under long-term control of the Authority or its affiliates:

Table 4: Authority Improvements to Property Remaining Under Port Control

Authority Improvements	Estimate	Notes
Pier 29 End Wall	850,000	Event Authority estimate - excludes Pier 27-29 demolition
BCDC Costs (Pier 19 south apron repair, Pier 64 removal, Pier 23 handrail, shed/fill removal at other locations TBD)	5,200,000	Event Authority cost estimate
Pier 27 Shoreside Power Relocation	2,000,000	Host and Venue Agreement Section 6.2
Pier 29 Substructure	1,000,000	Event Authority cost estimate
Subtotal Remaining Pre-Match Authority Infrastructure Work	\$9,050,000	
<i>General Contractor's Fee, Bonds, Design & Estimating Cont., General Conditions</i>	1,357,500	15%
Subtotal	10,407,500	
<i>Construction Contingency at 10%</i>	1,040,750	
Subtotal	11,448,250	
<i>Soft Costs (incl. development) at 8%</i>	585,860	Excludes design costs for Pier 19 apron. Port had engineering plans for this work. Also excludes design costs for relocating shore power.
Total Authority Improvements to Property That Will Remain Under Port Control	\$12,034,110	

The projects listed above will be reimbursed through Balancing Rent Credits. These Authority improvements to property that the Port will control have a total projected cost that exceeds the \$7.5 million estimate that the Port provided to the Board of Supervisors in 2010.

Long Term Development Benefits

The main principle underlying the DDA is that the Authority will provide the City with private investment in public facilities, which the Port will repay through rent free use of specified Port property (see Long Term Development Cost section below). This investment in public property, currently estimated at \$111.3 million, provides for capital improvements to facilities that are not expected to be improved otherwise.

According to Port engineering staff estimates, the current useful life of Piers 26, 28, and 30-32 is less than 15 years. Due to the high costs and low returns from repairing deteriorated substructure of these facilities, the Port has not included improvements to these piers in its FY 2011-2020 Capital Plan (choosing instead to prioritize limited Port resources on piers which are less costly to repair and provide a higher rate of return).

The Port has previously pursued development opportunities at both Piers 30-32 and Pier 26 under its public-private partnership model. At Piers 30-32, San Francisco Cruise Terminal, LLC ("SFCT") and the Port had a fully entitled lease for Piers 30-32 for a mixed use cruise terminal project. The project required state legislation authorizing the pier development program (AB 1389, Assemblymember Kevin Shelley), and a change to residential use on SWL 330 to generate revenues to finance the project. The development of condominiums required a swap of the public trust from SWL 330 to Port land in the southern waterfront. The project secured all entitlement approvals in 2005, but ran into unexpectedly high substructure repair and construction costs of the project. While the condominiums were successfully completed, the revenues generated were insufficient to finance the Pier 30-32 mixed use cruise terminal improvements, and SFCT let its development contract with the Port expire²². At Pier 26, the International Women's Museum entered into an exclusive negotiating agreement with the Port in 2003 but terminated after determining that substructure seismic improvement costs exceeded its development budget.

As such, the Event Authority's investment in Piers 30-32 and potentially Piers 26 and 28 (under either Authority Infrastructure Work, or optional Deferred Additional Work discussed above) extends the useful life of these facilities beyond the time which they would otherwise be unusable. While such extended use will not generate rent revenues to the Port in the near term, the public benefit of continued operations at these facilities contribute to the Port's mission to bring activity and commerce to the waterfront, and contribute to the Bay Area economy. Development of these sites, coupled with current Port projects to remove Pier 36 and construct the Brannan Street Wharf, will largely fulfill the objectives of the Port's Waterfront Land Use Plan for the South Beach/China Basin Subarea: if all of these sites are developed, only Pier 40 and Pier 38 remain in the South Beach China Basin subarea as unassigned mixed use development opportunity areas.

The DDA also requires the Authority to vote in favor of the establishment of a Maintenance Community Facilities District over Piers 30-32 and SWL 330, in order to provide a fund for the ongoing maintenance of the new Brannan Street Wharf, starting at \$200,000 annually. The Authority must also vote in favor of a Community Facilities District over Piers 30-32, to pay its fair share toward community facilities that may be required in the future to protect Piers 30-32 against sea level rise.

Long Term Development Costs

Assuming that the Authority expends more than \$55 million in eligible expenses, the DDA requires the City to reimburse the Authority for its investment in public property by (1) removing the Public Trust from Seawall Lot 330 and transferring ownership of this parcel to the Authority at no cost, (2) a rent-free 66 year lease of Piers 30-32, and (3) through long-term leases of other Port facilities for long term development with rent

²² The Port is utilizing the funds from the prior development of a portion of Seawall Lot 330 (the Watermark condominium project) to finance construction of the Brannan Street Wharf, as required by AB 1389, and the James R. Herman Cruise Terminal at Pier 27.

credits commensurate with the Authority's investment above \$55 million. The Authority's investment above \$55 million earns 11 percent interest over the life of the repayment period, which is redeemed by the Authority in the form of rent credits.

The Authority improvements that are eligible for repayment are discussed in detail above. As described above, Port staff has received the Authority's proposed Scope of Work, and the estimate is \$79.2 million pre-Match (2012), and \$32.1 million post-Match (2017)²³, for a total of \$111.3 million. Should these approved Scopes of Work be constructed for the estimated costs, the Authority would recover the costs above \$55 million through rent credits. The DDA defines several categories of investment for the purposes of reimbursement, with each category of investment reimbursed by a distinct and finite list of Port resources, as shown in the table below.

Table 5: Value of Rent Credits to the Event Authority

Type of Work	Exclusive List of Repayment Sources	ACEA Rent Credit Value (2012 NPV at 11%)
"Authority Infrastructure Work" (Capital Investment on Piers 30-32 and Other Improvements to Port Property)	P30-32 for 66 Years	31.0
	SWL 330 Sale	24.0
	IFD Bond proceeds from P30-32 and SWL 330	10.4
	P26 and P28 Interim Rent (Up to 10 Yrs)	11.0
	P29 Interim Rent (Up to 10 Yrs)	4.7
	P29 for 66 Years	7.6
	Residual Rent from P30/32	-
Total		88.7
Type of Work	Exclusive List of Repayment Sources	ACEA Rent Credit Value (2017 NPV at 11%)
"Additional Work" (Optional Capital Investment on Piers 26 and 28) ²⁴	P26 and P28 for 66 Years	15.1
	IFD Bond proceeds from P26/28 Development	3.7
	Historical Tax Credits	20.0
	Residual Rent from P26/28	-
	Total	

Note that the values above are not the Port's cost to provide the rent credits, but are the present value of the rent credits that are the repayment source to the Authority discounted at 11 percent per year.

²³ This is a conservative cost estimate, with a 20% contingency, inflated by 4% annually – the recent norm for construction cost inflation.

²⁴ Under the DDA, the Authority gains exclusive negotiating agreements for long-term marina rights in two locations (Pier 54 and the Brannan Street Open Water Basin) with the Port in exchange for dredging to accommodate spectator vessels. The DDA further provides that the Authority may transfer rent credits to and from Piers 26 and 28 and the marinas (except for Pier 54 substructure costs). The scope of these marinas is unknown. Furthermore, it is not known whether the marinas would receive regulatory approvals from state and federal agencies, including the San Francisco Bay Conservation and Development Commission, the San Francisco Bay Regional Water Quality Control Board and the U.S. Army Corps of Engineers. Port staff therefore deems both the cost of marina development and the value of such marinas too speculative to perform a financial analysis of these rights.

To compare sources of repayment to Authority spending, Port staff calculated the present value of projected Authority Infrastructure Work, pre- and post-Match, utilizing a discount rate of 11% for post-Match spending. The present value of this work is \$88.5 million, compared to a present value of repayment sources of \$88.7 million, as shown in Table 5 above.

Table 6: Rent Loss as a Percent of Port Revenue

Long Term Development Site	Space Type	Annualized Commercial Rent*	Percent of Port Revenue**
Pier 26	Shed and Bulkhead		
	Office	1,043,551	1.5%
Pier 28	Shed and Bulkhead		
	Office	611,455	0.9%
Pier 30-32	Open Pier (Parking)	1,004,462	1.5%
SWL 330	Open Land (Parking)	626,779	0.9%
Pier 29***	Shed Space	629,477	0.9%
Total		3,915,724	5.7%

*Note rent assumes vacancy at average Port level and parameter rents. Current actual vacancy and rents vary.

**Based on FY 11-12 budgeted Port revenues of \$68.9m.

***Assumes reduced footprint compared to current shed resulting from Cruise Terminal construction.

Table 6 above shows that permanent rent loss to the Port from development of AC34 long-term development sites represents 5.7% of total current Port revenues. Port staff projects that the majority of these facilities have a limited useful life (9-30 years).

To accurately estimate the cost to the Port, staff calculated the opportunity cost to the Port, or the amount of rent which would have been received by the Port for the remainder of that facility's useful life. The calculations consider the current property value with existing uses, not other potential development opportunities.

The value of the long term development rights to Piers 26, 28 and 29 are also relevant to the opportunity cost to the Port. The Port has commissioned consultant analysis of the potential value to the Port from Piers 26 and 28 from long-term development. The valuations include cost analysis of improving these pier sheds for future use and an assessment of potential development revenues. These studies conclude that the rents expected after renovation of these facilities cannot support the substructure and other costs currently estimated. Analyzing the proposed rent credit structure, these studies conclude that potential rents to the Port do not exceed the \$6 psf rent credit set in the DDA. Based on these assessments the consultant also estimated potential Port returns from development at Pier 29. Though this estimate was less detailed it concluded that \$6 psf represented a fair estimate of value to the Port from a long term development lease at Pier 29.

Table 7: Port Opportunity Cost

Type of Work	Exclusive List of Repayment Sources	Port Opportunity Cost (2012 NPV at 6%)
"Authority Infrastructure Work" (Capital Investment on Piers 30-32 and Other Improvements to Port Property)	P30-32 for 66 Years	6.6
	SWL 330 Sale	17.2
	IFD Bond proceeds from P30-32 and SWL 330	-
	P26 and P28 Interim Rent (Up to 10 Yrs)	12.6
	P29 Interim Rent (Up to 10 Yrs)	4.8
	P29 for 66 Years	11.3
	Residual Rent from P30-32	-
Total		52.5
Type of Work	Exclusive List of Repayment Sources	Port Opportunity Cost (2017 NPV at 6%)
"Additional Work" (Optional Capital Investment on Piers 26 and 28)	P26 and P28 for 66 Years	14.9
	IFD Bond proceeds from P26/28 Development	-
	Historic Tax Credits	-
	Residual Rent from P26/28	-
	Total	

Note that the IFD bond proceeds and Historic Tax Credit ("HTC") sources of repayment have no opportunity cost in the table above because if it were not for ACEA investment, there would be no IFD increment or HTCs available.

For Authority Infrastructure Work, the Port will forgo a present value of \$52.5 million in rent in exchange for race related improvements that make the 34th America's Cup event possible in San Francisco, and for long term development of Piers 30-32. For Additional Work, the Port will forgo the expected 15 years of future rent from Piers 26 and 28 (estimated at \$15 million with no capital investment) for the opportunity to redevelop these facilities. The Port's Capital Plan has not allocated resources to Piers 26 and 28 because the costs are higher than expected returns and the Port does not have sufficient net revenues to provide the public subsidy needed to save these historic resources.

As described above, prior to the start of planning for the 34th America's Cup, the Port had no plans to conduct capital upgrades to Piers 30-32 and Piers 26 and 28 to extend their useful life.

Additional Financial Considerations

Buy Out Option

The DDA contains a provision that allows the Port and the City to pay directly for or purchase improvements above \$55 million if it exercises this option within 180 days of the Authority's commencement of a Guaranteed Maximum Price contract for work eligible for reimbursement.

Port staff recommends that the Port Commission retain the option to “buy-out” the Authority’s investment above \$55 million, as a potential means to avoid a scenario wherein Pier 29 becomes a long-term development site under the balancing provisions of the DDA. Port staff expects that the engineering analysis required by the Port in its Scope of Work approval of seismic improvements for Piers 30-32 will be completed by June 2012. If that analysis yields a significantly less costly seismic upgrade solution for Piers 30-32 than the design currently proposed, it may be advantageous for the City/Port to elect to pay above \$55 million.

However, prior to recommending that the Port Commission and the Board of Supervisors exercise any such option, Port staff would consider:

- The Port’s cost of funds (*i.e.* the current revenue bond interest rate climate) as compared to the Authority’s 11%;
- How close the Authority is to exhausting the finite list of reimbursement sources; and
- The short term and long term rent revenues which would be retained by the Port if Pier 29 returned to Port control.

Debt Capacity

As shown above, the rent loss to the Port from long term development sites total \$3.9 million annually. This rent loss will result in a reduced capacity for the Port to issue revenue bonds.

In February 2010, the Port issued \$36.7 million in Revenue Bonds in two series - a non-AMT tax-exempt series (Series 2010A) and a taxable series (Series 2010B). The capital projects receiving funding from these bond proceeds include the Pier 27 cruise terminal project, Piers 90-96 backlands, design work for Piers 19-23, Piers 33 and 35, Pier-19 roof replacements, and the Pier 50 valley. When the bonds were sold, the Port prepared five-year projections of its net revenues and debt service, which included the assumption that the Port would be issuing approximately \$59.5 million in additional debt within that five year period (2010-2015). These projections were based on: (1) \$10 million in net annual revenues, (2) an assumption that all future debt would be tax-exempt and (3) the addition of new revenue sources. The total debt capacity assumed was \$68.8 million.

The current projections estimate \$15.3 million in net annual revenues in FY 2011/12. Based on this, consideration of the need for taxable debt, revised timing and revenue estimates for development projects underway, rent loss from the transfer of long term development rights at Seawall Lot 330 and Piers 30-32, and development options granted at Piers 26, 28 and 29, the Port can issue approximately \$65 million of debt over the next five year period (2012-2017).

The planned uses for the Port's next debt issuance are to: (1) complete Phase I of the Cruise Terminal project and provide financing for Phase II that is recovered through a planned passenger facility charge, (2) finance shoreside power at the drydock on Pier 70 to meet the air quality mitigations for the Cruise Terminal project, and (3) finance projects that retain and enhance existing Port revenues as follows (reflects project proceeds, not par amounts):

- 2012 - \$15.5 million for Phase I for the Pier 27 cruise terminal project;
- 2014 - \$25 million for pier utility projects to preserve existing revenues, and for Piers 19-23, or for other revenue generating projects;
- 2014 - \$4.5 million for Phase II of the Pier 27 cruise terminal project, repaid through a passenger facility charge; and
- 2013-22 - \$676,000 annual loan repayment for a \$5.7 million shore power installation at the Pier 70 drydock. A utility surcharge will support 75 percent of the payment.

AB 664

In 2011, the Port of San Francisco worked with the Office of Mayor Ed Lee and Assemblymember Tom Ammiano to obtain AB 664 related to financing improvements required for the 34th America's Cup. AB 664 was adopted by the Legislature and signed into law by Governor Jerry Brown.

AB 664 includes a financial test: if the California Infrastructure Financing Bank (I-Bank) finds that the net present value of tax benefits of the 34th America's Cup to the State of California exceeds the net present value of proceeds of growth in possessory interest tax from future development of America's Cup Venues on Port property that would otherwise be deposited into the State's Education Revenue Augmentation Fund (ERAF), then the State of California will participate in funding waterfront improvements for the 34th America's Cup by allowing the Port to divert up to \$1 million annually from ERAF for a period of up to forty-five years for the following purposes:

- To finance or refinance improvements to the Pier 27 Cruise Terminal;
- To finance additional shore power improvements to port property; and
- Utilizing 20% of available proceeds, to finance legacy improvements to National Park Service, State parks, or San Francisco Recreation and Parks Department lands used as venues for watching the 34th America's Cup.

The Bay Area Council Economic Institute and Beacon Economics report "*America's Cup: Economic Impacts of a Match on San Francisco Bay*" estimated tax benefits of the 34th America's Cup of \$61 million from 2012-13. The net present value of the 45 year

ERAF share of increment that AB 664 will provide is \$15.5 million (6 percent discount rate).

The Port of San Francisco would not benefit from this ERAF contribution, but for hosting the 34th America's Cup. Port staff calculates that AB 664 will be worth \$12.4 million to the Port (80% of the total).

Key Financial Findings

- With the addition of Seawall Lot 330 and IFD bond proceeds, the agreement provided in the DDA represents a rare opportunity to successfully develop Piers 30-32, Pier 26 and Pier 28 in accordance with the Waterfront Land Use Plan, sites the Port had excluded from its FY 2011-2020 Capital Plan.
- The current DDA treats rent credits in a manner that is much improved over the Host and Venue Agreement, in that it limits the reimbursement of Authority investments to a finite bundle of repayment mechanisms and lease rights. This limits uncertainty surrounding the Port's future obligations under the DDA.
- The current DDA treats rent credits in a manner that is much improved over the Host and Venue Agreement, in that it limits transferability of rent credits among various sites. For instance, rent credits from future development at Piers 26 and 28 may not be transferred to Piers 30-32 or Pier 29, and rent credits arising from Pier 54 substructure repairs are not transferable.
- Providing potential access to up to 50% of the proceeds of the first fifteen years of a subsequent lease at Piers 30-32 and Piers 26 and 28 represents both a departure from long-standing Port policy and a significant new approach to attracting private investment to Port piers that have negative land value. This tool should not be replicated in other Port development agreements unless there is credible market or third-party evidence that a subject Port pier is not a financially feasible development site with other available financial tools.
- Since the Authority has a defined set of repayment options under the final DDA, it shares a financial incentive with the Port to ensure that costs associated with Authority work are contained. The present value of sources of repayment (\$88.7 million) for Authority Infrastructure Work is closely matched to the present value of expected Authority Infrastructure Work expenditures (\$88.5 million).
- The City and the Port should continue to exercise of the Port's Scope of Work approval rights under the DDA, maximizing the future utility of all Authority investments to the reuse of Port properties.
- The sale value of Seawall Lot 330 (as compared with the net present value of rental income from the site) and any proceeds from AB 664 represent new sources of revenue for the Port to pay for waterfront improvements that Port would not have realized but for hosting the 34th America's Cup.

- The Community Facilities District assessed against SWL 330 and Piers 30-32 to pay for the ongoing maintenance of the new Brannan Street Wharf provides an independent source of revenue that relieves the Port of the ongoing maintenance and operation costs of this new public open space, including personnel or third-party maintenance costs.
- Balanced with its other waterfront investment needs, the Port's financial position will remain strong if the DDA is approved by the Board of Supervisors, and development at Piers 30-32, Pier 26, Pier 28, Pier 29 and the two marina locations proceeds as contemplated. The present value of the rent streams that the Port will forego to enable this development (or Port opportunity cost) is \$67.4 million.

POLICY ANALYSIS

The economic benefits of hosting the Event to local and regional businesses and workers will be substantial, and will help stimulate the region's recovery from the recent recession and stagnation of job creation.

Fiscal analysis of the AC34 agreements indicates that hosting the Event will require substantial public investment. Port staff offers the following policy analysis to assist the Port Commission, the Board of Supervisors and the Mayor in their respective deliberations:

Project Benefits

- AC34 will establish San Francisco Bay's identity as a world-class venue for the sport of sailing and generate interest in the sport in 2012 and 2013.
- The Event will increase both short-term and permanent public access to the waterfront by providing public viewing opportunities of the America's Cup live racing events at close range from various locations on the waterfront around Central San Francisco Bay, some of which are not currently publicly-accessible.
- The Authority will provide infrastructure and structural upgrades to Port facilities consistent with Port of San Francisco building code requirements and the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- Throughout joint planning efforts, the Authority and the City have emphasized the Bay and natural resource stewardship by incorporating sustainability principles in the planning and management of all race events and operations, including strategies identified in the People Plan and Zero Waste Plan.
- AC34 will generate substantial new demand for the Port's retail and maritime tenants.

- The James R. Herman Cruise Terminal and Northeast Wharf Plaza projects at Pier 27 are the beneficiaries of major public interest in AC34. The City has been generous in its support of these projects and the projects have seen their project timeline substantially accelerated as a result of AC34.
- For Piers 30-32, the substructure and deck repairs conducted by the Authority will improve a facility that is designated as a major development opportunity site in the Port's Waterfront Land Use Plan. Absent AC34 and the opportunity for Authority investment in Piers 26 and 28 after the Match, the Port did not have a meaningful capital plan or land use strategy to save these valuable historic resources.
- The Project includes many refinements and new mitigation measures which substantially reduce the amount and severity of construction and Port operational air emission impacts including installation of shoreside power capability at the Pier 70 Drydock #2 and new stormwater treatment improvements at Piers 30-32.
- AC34 will generate thousands of local jobs leading up to and during the Event.

Project Risks

Some of the risks posed by the Project are unusual for a Port development agreement, and Port staff only recommends assuming such risks in the context of a major international event such as the 34th America's Cup. The following are the major risks identified to date by Port staff:

- The projected cost of proposed waterfront improvements substantially exceeds the costs previously estimated by the Authority and the Port.
- The terms of the DDA do not provide the Port financial participation in the future development of Piers 30-32 and Seawall Lot 330, contrary to standard Port development practice and despite substantial public investment in Piers 30-32 in the form of rent credits and IFD proceeds.
- The DDA does not currently apportion the risk of Project cost overruns in a manner that is typical for Port agreements. Usually, the Port and its partner jointly assess project costs and agree on rent and rent credit terms; costs incurred above that amount are usually assumed by the Port's private partner. The final DDA does, however, limit Authority repayment options to a specific list of options, which results in shared interest in containing costs.
- Commencing in 2014, the Port may see a return of 3 to 7 finger piers to Port control. The Port will need to lease these piers in short order to maintain stable revenues in the period after the City's commitment to replace the Port's lost rent ends. To prepare, the Port may be required to make investments in these facilities to ready the facilities for future tenants.

- The improvements for the 34th America's Cup may impact the Port's cruise business before and during the race due to temporary loss of cruise berths at Pier 27 and Piers 30-32.

The issues described above are serious public policy considerations. Port staff notes these issues to facilitate a robust public policy discussion and to ensure that the Port Commission, the Mayor and the Board of Supervisors may take final steps to approve the actions needed to facilitate hosting of the 34th America's Cup in San Francisco Bay with complete information in hand.

Prepared by: Brad Benson, Special Projects Manager
Jonathan Stern, Asst. Deputy Director, Planning & Development
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Attachment A: December 16, 2011 staff presentation

Attachment B: Additional DDA terms

Attachment C: Scope of Work approval

Attachment A: December 16, 2011 Port Commission Presentation

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Attachment B: Remaining Terms of Development and Disposition Agreement

This Attachment provides a summary of the terms of the proposed Development and Disposition Agreement (“DDA”) that are not outlined in the staff report. A copy of the DDA is on file with the Port Commission Secretary.

Construction Scope of Work/Construction Documents

The DDA has provisions governing construction documents and Scopes of Work, including:

- The Port must approve any new Scopes of Work and any amendments to previously approved Scopes of Work
- Deferred Additional Work (Piers 26-28) will be determined under a separate Scope of Work agreed-upon at time of the applicable Long-Term DDA/Long-Term Lease;
- The Port has approval over construction documents in its proprietary and regulatory capacity, but its scope of review is limited to whether the plans are consistent with codes and regulations and previously approved Scopes of Work and plans, and the Port must exercise approval in its reasonable discretion, subject to arbitration provisions; and
- The Port must approve construction documents within 30-days of submittal.

Provisions Governing Construction

The DDA has provisions governing Authority construction activities, including:

- The Authority must submit quarterly financial reports to provide the Port with a good faith estimate of its Authority Infrastructure Work costs (the Investment Value Estimate), based on its Guaranteed Maximum Price (GMP) contracts and costs incurred to date of report;
- The Authority will invite the Port to weekly progress meetings and will disclose anticipated cost and Scope of Work changes at such meetings;
- Within 60 days after the DDA is signed, the Authority will provide the Port with a statement of the Authority’s Pre-Development Costs (all pre-DDA soft costs related to the Event);
- Within 45 days after the end of the first full calendar quarter after the DDA effective date, the Authority will provide the Port with estimated costs for the Scopes of Work approved on December 16, 2011; the Authority must continue to submit monthly reports with updates on its estimated costs;

- The Authority must provide the Port with evidence of availability of funds to complete the improvements;
- The Port will have 5 days after the Authority submits any cost update to object to any item that the Port believes is not within an approved Scope of Work or is commercially unreasonable, with disputes subject to arbitration;
- After the Port has issued the first building permit for a Scope of Work, the Authority will submit monthly reports showing any changes in the estimated costs and anticipated change orders;
- At earliest feasible opportunity (including weekly progress meetings), the Authority will share with Port any requests for change orders or changes in project schedule or Scope of Work, and changes that would result in any line item exceeding 10% of estimated budget;
- For any anticipated changes that would increase estimated budget, the Authority will consult with the Port to discuss cost-containment and value-engineering measures;
- The Authority will provide the Port with 30-days' notice before negotiating GMP contracts for the Scopes of Work; to allow Port ability to obtain its own cost estimates;
- The Port must review bid packages and approve changes in any previously approved Scope of Work, including review of cost increases;
- The Authority will provide a Completion Guaranty of its obligations to perform required Authority Infrastructure Work, Regulatory Conditions of Approval, and Authority Mitigation Measures, but if the DDA terminates, the obligations will be limited only to any surviving improvement obligations and the obligation to restore a particular Venue to in a condition as good as when it was delivered;
- The Authority's Completion Guaranty may also be used to secure the \$24 million in Authority Infrastructure Work that is a pre-condition to actual fee transfer of Seawall Lot 330;
- The Authority and the Port will establish final Project Costs to determine Investment Value as follows:
 - Within 60-days after effective date of DDA, the Authority will provide a statement of all pre-development costs;
 - Within 120 days after completion of each Scope of Work, the Authority will furnish an itemized statement certified by its CFO or an independent CPA of all Project Costs; and

- The Port has right to audit the Authority's books and records regarding its "Certified Project Costs" for each Scope of Work, and the Authority must pay the Port's audit costs if the audit concludes that the Authority has overstated its Project Costs by more than 5%;
- The Authority will meet construction-related insurance requirements, as set by the City Risk Manager; and
- The Authority will adhere to a Workforce Development Plan, including City requirements such as First Source Hiring and prevailing wages, for all construction work.

Casualty/Risk of Loss

If casualty (earthquake, fire or other major property damage) occurs to any Venue pre-delivery, the Port has the obligation to provide functionally equivalent site. If it occurs pre-delivery for a Venue with major construction, and any required repair is less than \$500,000, the Authority must still accept premises and repair costs are subject to reimbursement. However, if the casualty occurs before delivery of the Venue and repair costs exceed \$500,000, either party has the option to terminate the DDA as to the damaged Venue without obligation to the other party. The Authority may elect to accept delivery of a Long Term Venue or, for a Short Term Venue, require the Port to deliver a functionally-equivalent alternative Venue. If the Authority accepts the damaged Venue, the Port will be obligated to pay for repair costs above \$500,000 up to the limits of the Port's available insurance proceeds.

If a casualty occurs after the Port has delivered a Venue that would give the Authority the right to terminate the applicable Venue Lease or Venue License and impair the Authority's ability to hold the Event, the Authority will have the right to terminate the DDA in its entirety, and will be entitled to reimbursement for its investment. The Authority's sources of recovery will be limited to insurance proceeds (including any FEMA funds), plus parking revenues from an interim lease of Piers 30-32 and a long-term lease of Piers 30-32, or a share of IFD proceeds from any future third-party development of Piers 30-32. 11% interest on investment will accrue during any repayment period.

Defaults and Remedies

The DDA provides for the following Authority defaults and remedies:

- If the Authority fails to make a payment that is not cured within 30 days, the Port may reduce the Authority's rent credits by the unpaid amount;
- If the Authority fails to comply with Workforce Development Plan, the remedies are limited to those described in that Plan;

- If the Authority's Guarantor fails to perform or falls below a net worth threshold and Authority doesn't replace the Guaranty within 30 days, the Port may terminate the DDA; and
- If the Authority fails to comply with any other of its obligations under the DDA and the default is not cured within 30-days, or the Authority is not diligently pursuing a cure, the Port may terminate the DDA or pursue an action for specific performance and damages.

Where an Authority Event of Default could materially impair the Authority's ability to stage the Event in the City or impair its long-term development rights, the Authority may cure the default by paying to the Port the amount of damages that the Port has incurred due to the default.

The DDA provides for the following Port defaults and remedies:

- If the Port fails to deliver a Venue or functionally-equivalent space acceptable to the Authority when required, the Authority may terminate.
- If the Port fails to perform any other obligation and the default remains uncured within 30-days or can't be cured within 30-days, the Authority may terminate the DDA or pursue an action for specific performance or damages.

Dispute Resolution

The DDA provides for an expedited arbitration procedure in place for certain disputes, including:

- Whether a work of improvement is a Regulatory Condition of Approval;
- In the event of a casualty occurring to a Venue before its Delivery, whether the cost of repairs would add more than \$500,000 to the Estimated Scope of Work Cost;
- Approval or Disapproval of Construction Documents and related matters;
- Conflicts between Project Requirements and other Governmental Requirements;
- Whether a space offered by the Port in lieu of a Venue is considered functionally equivalent;
- Whether or not an item is within the Approved Scope of Work; and
- Whether the Port has failed to issue a Temporary Certificate of Occupancy.

Attachment C: Scope of Work and Port Approvals

Authority Infrastructure Work – Pre-Match Scope of Work Requirement

Based on the Port's review of the proposed Scope of Work and associated cost estimates, including review by the Port's third-party engineering consultants of key elements, the Port finds that the Event Authority has met the requirements of Section 6.5 of the Host and Venue Agreement to identify a minimum scope of work for the Authority Infrastructure Work with an estimated cost of \$55 million to be constructed before the Match.

This Scope of Work approval applies to work proposed by the Event Authority that is contemplated in the Final Environmental Impact Report for the 34th America's Cup and the James R. Herman Cruise Terminal and Northeast Wharf Plaza, and is in the process of being reviewed and permitted by the U.S. Army Corps of Engineers, NOAA Fisheries Service (NOAA Fisheries), the California Department of Fish & Game, the San Francisco Bay Regional Water Quality Control Board (RWQCB), the San Francisco Bay Conservation and Development Commission, and the Port.

The Scope of Work approval is conditioned on receipt of permits required for the proposed work, and submission of 30% designs and cost estimates for the work proposed. The Disposition and Development Agreement provides a mechanism for the Event Authority to propose modifications to the proposed Scope of Work and to propose new work at one or more Venues, either before or, at designated Venues, after the Match.

Authority Infrastructure Work Proposed Scope of Work and Port Approvals

The Event Authority proposes to conduct the following Authority Infrastructure Work before the Match, pursuant to Section 6.2 of the Host and Venue Agreement:

Pier 30-32 Improvements

Event Authority Proposed Scope of Work: The Event Authority proposes to make a number of temporary and permanent improvements and repairs to Piers 30-32 to support full access and team base operations.

The proposed improvements include:

- A permanent infill structure to raise the existing depressed valley (approximately 3'6" deep) between Piers 30 and 32 to provide a level surface throughout the Pier. The infill structure will consist of a reinforced concrete slab and beam system supported on short (approximately 2 feet high) columns, which are located directly over existing piling.

- Permanent roadways along the eastern, northern, southern perimeter and in the new infill area at the center for emergency vehicle access, truck delivery, and 300 ton truck crane access for team base erection.
- Pads for tower cranes along the southern edge of the Pier 32 to launch and retrieve vessels.
- Most of the Piers 30-32 deck and supporting piles (except for roadways and crane access areas) will be repaired as required to support 250 PSF live load and light vehicles (H10 loading with maximum wheel load of 8 kips) and loads associated with moving racing vessels around on wheeled cradles. Roadways areas will be strengthened to support HS20 Truck loading. Crane access areas will be strengthened to support crane loads.
- Seismic strengthening of the Piers 30-32 substructure, including separating the piers from the marginal wharf by creating a seismic joint between the two structures. The creation of seismic joint will require about 39 new 18" diameter concrete piles (this number could be as high as 45 subject to final determination by the Port's Chief Harbor Engineer) to support marginal wharf. The seismic strengthening of Piers 30-32 will involve installation of 42-6 foot diameter steel piles in groups at four locations with a concrete cap beam at each location.

Based on a detailed investigation performed, approximately 25% of the older concrete caisson piling is deteriorated due to environmentally induced corrosion and wave action. These piles will be repaired by installing a new reinforced concrete jacket extending from the pile cap to the seabed (with formwork left in place). A number of piles will receive crack repairs such as epoxy injection or concrete patching at the top near their connection to the beam and slab deck. No more than 10 existing piles in deteriorated condition will be replaced in their entirety.

Portions of the substructure deck framing will be repaired or replaced as needed. Selective demolition of the existing deck is required to drive the piles and a new concrete beam and deck system will replace any demolished areas.

Utilities

Piers 30-32 currently has a working water meter and a number of small diameter water lines along the south edge of Pier 32 and in the center depressed area. A new 4" ductile iron water line from an existing 8" main in the Embarcadero will be installed under the deck slab to the center depressed area where the 4" line will be below new raised deck slab in the "crawl space."

The on-site sewer collection and conveying system includes 3" force mains under the team support module to a package lift station located at the center of team bases between Team Bases 5 and 6. From the package lift station, the sewage will be pumped through a new 4" force main through the center depressed area and on to an existing pump station where the station will be equipped with duplex vertical turbine

pumps that each alone has the sufficient capacity to discharge the sewage through an existing below-deck, 4" force main to the City gravity system in the Embarcadero. New hangers will be installed to support the 4" force main.

Post-construction BMPs will be installed as part of the deck infill/replacement project to provide additional protections to water quality. The Event Authority will install shallow treatment filters along a significant portion of these piers. The intent will be to maintain the existing grades and install shallow treatment filters at several existing storm drain inlets. The shallow treatment filters are typically granular activated carbon and debris filters with replaceable cartridges.

Stormwater management features will be constructed consistent with the San Francisco Stormwater Management Guidelines will be installed in coordination with the San Francisco Public Utilities Commission (SFPUC) as detailed in a Stormwater Control Plan.

Soft Costs and Regulatory Requirements

Soft costs for this work include direct costs of developing design and engineering plans for this work. Regulatory requirements include all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Port Approval: The Port approves all deck and non-seismic structural improvements to Piers 30-32, except as noted below, subject to final approval of a Stormwater Control Plan for the site.

Please provide the following revisions to the AECOM proposed structural alteration plan for Pier 30-32:

1. Consider deleting the requirement for structural alteration for drainage leveling of approximately 18,000 square feet on the south side of Pier 30-32, adjacent to the crane lift area and north of the originally proposed south access roadway location. Demonstrate the minimum leveling needed from an operational standpoint and consider a non-structural paving solution.
2. The 30% structural alteration seismic trigger as per Port Building Code Section 3404.7 is assumed to be exceeded. Perform a non-linear response history (time-history) analysis using past earthquake events as suggested by the BCDC Engineering Criteria Review Board.

The Port conditionally approves the proposed forty-two (42) 6 foot steel seismic piles, or any portion thereof, as well as the proposed seismic joint, if required to meet Port Building Code's seismic requirements. The Event Authority shall continue to consult with the Chief Harbor Engineer about methods to meet seismic code requirements. Regardless of whether the full forty-two (42) pile seismic pile upgrade and the seismic

joint are constructed pre-Match, this work shall be deemed Authority Infrastructure Work if constructed within five years after the Match.

The Port approves water and wastewater utility upgrades. Approval of stormwater improvements is subject to final approval of a Stormwater Control Plan.

The Port approves all regulatory requirements, including all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit details regarding soft costs. Legal costs are not eligible as reimbursable costs.

Pier 27-29 Improvements

Event Authority Proposed Scope of Work: The Event Authority proposes to make permanent upgrades and repairs to make the following improvements to Piers 27-29:

1. Repair 11-40 piles with reinforced concrete jackets.
2. Construct new Pier 29 shed east/corner wall consistent with Secretary of the Interior's Standards for Treatment of Historic Properties.

Construct a new east/corner wall for Pier 29, separated from the existing walls of the shed by a shallow reveal, distinguishing the new construction from the historic structure.

Port Approval: The Port will undertake demolition of the Pier 27 and 29 sheds, along with the Pier 27 Annex Building to facilitate coordination with cruise terminal construction and site staging. The Port approves all other proposed work, subject to final approval of Stormwater Control Plan for the site.

The Port approves all regulatory requirements, including all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit details regarding soft costs. Legal costs are not eligible as reimbursable costs.

Piers 32-36 Brannan Street Wharf Open Water Basin

Event Authority Proposed Scope of Work: To provide sufficient water depth for boat clearance, dredging and pile removal will be conducted within the Piers 32-36 Open Water Basin. Approximately 110,000 cubic yards (cy) of sediment will be dredged from this area. This total consists of a portion of dredging at a depth of approximately -15 feet Mean Lower Low Water (MLLW), plus a -2 feet for overdepth allowance. The sediment

will be characterized and tested for multiple disposal options through the Dredged Material Management Office (UASCE, EPA, BCDC, RWQCB, SLC, state and federal wildlife agencies), which agencies make sediment suitability determinations through the sediment sampling and testing process. Piles will be removed, including the portion of piles beneath the mudline, to the extent feasible.

Port Approval: The Port approves dredging and pile removal in the area immediately to the south of Pier 32 in an area sufficient to provide access by AC72 catamarans to the proposed cranes along the south face of Pier 32, and to provide access to any large spectator vessels that will moor along the south face of Pier 32. The portion of this work related to mooring and access for large spectator vessels shall be deemed as Additional Work for purposes calculating Marina Rent Credits and for triggering the Event Authority's long-term marina rights in this area.

The Port conditionally authorizes dredging and pile removal in the area proposed for mooring of the AC72 catamarans in the Piers 32-36 Brannan Street Open Water Basin. The Event Authority shall use reasonable efforts to limit the proposed dredge to serve the number of AC72 catamarans that will actually be competing (and thus require mooring locations). To the extent that fewer mooring locations are required, the Event Authority will reduce the proposed dredge area by moving the southern boundary of the dredge to the north, first eliminating the portion of the proposed dredge under the former footprint of Pier 36. The Port will coordinate with the Event Authority to request that America's Cup Race Management survey the competing teams prior to the proposed dredge to determine minimum dredge depth requirements. The Port will provide final approval of the remainder of this proposed dredge no later than June 1, 2012.

The Port approves all regulatory requirements, including all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit detail regarding soft costs. Legal costs are not eligible as reimbursable costs.

Pier 19 Apron Repair and Pier 23 Handrail

Event Authority Proposed Scope of Work: To fulfill BCDC public access requirements for the Event, repair the Pier 19 south apron. This work consists of replacing up to 74 new bearing piles. The work also includes demolishing and disposing 2,800 square ft. of rotted decking and stringers and replacing with new. 702 linear feet of cap beams will also be replaced. Install a permanent 760 lf handrail along the Pier 23 north apron.

Port Approval: The Port approves all regulatory requirements, including Pier 19 repair and the Pier 23 handrail, and all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental

Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit details regarding soft costs associated with construction of the Pier 23 handrail. The Port paid for soft costs associated with Pier 19 south apron repair and provided these designs to the Event Authority. Legal costs are not eligible as reimbursable costs.

Pier 64 Pile Removal and Caspian Tern Replacement Nesting Platform and Pier 1/2 Pile and Deck Removal

As a proposed public benefit associated with the proposed use of areas designated by the Bay Conservation and Development Commission and to mitigate for fill and habitat impacts associated with the RWQCB and the NOAA Fisheries Service permitting, the Event Authority proposes to remove Pier 64 near Mission Rock. This pier consists of a collection of remnant piles adjacent to the Mission Bay Bayfront Park encompassing approximately 234,250 square feet of water area.

It is possible the proposed fill removal at Pier 64 could result in the loss of approximately 1,500 sq ft platform used by Caspian terns. As part of the proposed fill removal project, to the Event Authority will create a 1,500 sq ft bird platform that can withstand 100-year base flood conditions and sea level rise to 2050. The platform would require approximately 8 - 16" concrete or steel piles (approximately 12 sq ft of replaced permanent fill). This platform will be a net legacy improvement for Caspian terns since the existing platform is dilapidated and likely would not hold up much longer.

Port Approval: Consistent with discussions with the RWQCB and other resource agencies, the Port approves the proposed Scope of Work, subject to the Event Authority's agreement to implement a comprehensive approach for removing piles at both Pier 64. Specifically, the preferred method of removal will be removal of piles through vibratory extraction, followed by direct pull, clamshell removal and cutting, as necessary based on site-specific investigations, consistent with the approaches identified in the Subtidal Habitat Goals Report to remove piles.

The Port approves all regulatory requirements, including Pier 64 removal and a replacement Caspian Tern nesting platform, and all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit details regarding soft costs. Legal costs are not eligible as reimbursable costs.

Additional Work Pre-Match

Event Authority Proposed Scope of Work: The Event Authority proposes to conduct the following Additional Work before the Match, pursuant to Section 6.7(a) of the Host and Venue Agreement:

Piers 28-30 Water Basin

To accommodate sponsor and spectator boats, dredging will be necessary on the south side of Pier 28 to achieve a depth of - 12 ft MLLW. Approximately 5,000 cy of sediment will be characterized and tested for various disposal sites through the DMMO regulatory process.

North of Pier 14 and Piers 14-22½ Rincon Point Open Water Basin

To accommodate temporary berthing of spectator and Event sponsor vessels, dredging north and south of Pier 14 to a depth of – 12 ft MLLW. Approximately 24,000 cy will need to be dredged and disposed of through the DMMO regulatory process.

Pier 9

To accommodate spectator vessels, dredging a depth of -12 ft MLLW. Approximately 10,000 cy will need to be dredged and disposed of through the DMMO regulatory process.

Port Approval: The Port approves the proposed dredging subject to approval by the Dredged Material Management Office. The southern boundary of the dredge proposed in the Rincon Point Open Water Basin shall be to the north of the northern boundary of Rincon Park to preserve open water views for the public.

The Port approves all regulatory requirements, including all mitigation costs directly associated with these construction activities imposed by 1) mitigation measures in the Final Environmental Impact Report for the 34th America's Cup Events and the James R. Herman Cruise Terminal; and 2) permits issued by any Regulatory Agency.

Please submit detail regarding soft costs. Legal costs are not eligible as reimbursable costs.

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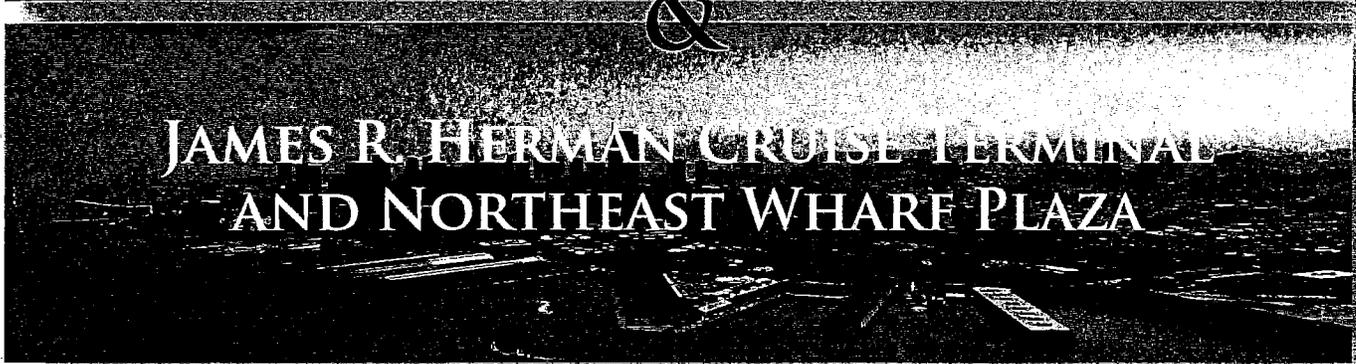
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VOLUME 1

DRAFT ENVIRONMENTAL IMPACT REPORT



THE 34TH AMERICA'S CUP



JAMES R. HERMAN CRUISE TERMINAL
AND NORTHEAST WHARF PLAZA

SAN FRANCISCO PLANNING DEPARTMENT CASE NO. 2010.0493E

STATE CLEARINGHOUSE NO. 2011022040

DRAFT EIR PUBLICATION DATE: JULY 11, 2011

DRAFT EIR PUBLIC HEARING DATE: AUGUST 11, 2011

DRAFT EIR PUBLIC COMMENT PERIOD: JULY 11, 2011 - AUGUST 25, 2011

WRITTEN COMMENTS SHOULD BE SENT TO THE
ENVIRONMENTAL REVIEW OFFICER
1650 MISSION STREET, SUITE 400
SAN FRANCISCO, CA 94103



SAN FRANCISCO
PLANNING
DEPARTMENT